

# 1st International Symposium on Peace Bangladesh-2018

*Nonviolence-path of the peace*



**Bangladesh International Mediation Society**

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**Bangladesh International Mediation Society  
By its Chairman**

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বাংলাদেশের স্থপতি জাতির জনক বঙ্গবন্ধু শেখ মুজিবুর রহমান  
Founder of Bangladesh Bangabandhu Sheikh Mujibur Rahman

# Bangladesh International Mediation Society

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# Bangladesh International Mediation Society

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## Foreword

The Editorial Board is ecstatic for the extremely valuable, scholarly and timely contribution by our valued and esteemed panelists and other contributors, whose whole-hearted participation has undoubtedly enhanced the candour and worthiness of this souvenir. It is our honour and pleasure to have been able to bring out this publication on this momentous occasion of the Istever International Symposium on peace in Bangladesh. The title of the Symposium chosen aptly, 'Nonviolence—the Path to Peace and Prosperity', has not only been appropriate but is also a true reflection of the need of the time and society.

The Symposium being inaugurated by the Attorney General for Bangladesh is highly indicative of the good intentions and support of the Government for continued and increased use of ADR in the country. Esteemed participants and panelists, by their presence and participation have not only added colour but also made the summit more eloquent and expedient. Surely, such an event being hosted successfully bodes well for the future of ADR in Bangladesh.

We wish to express our gratitude and sincere appreciations to all concerned for the remarkable support in our endeavour. We wish the event a grand success

22 September, 2018  
Dhaka, Bangladesh

**K S Sarma**  
Chairman,  
Educational Board &  
Advisor, BIMS



## **Message from Chairman Bangladesh International Mediation Society**

**A** year ago, on the 31st of May 2017, Bangladesh International Mediation Society was born as the result of hard work, dream and dedication of a few of us. To usher our beloved country Bangladesh into the new era of Alternative Dispute Resolution (ADR), especially Mediation, was our motivation.

**We**, the people connected with legal profession in this country, are extremely well aware of the inordinate delay and the almost insurmountable sufferings connected with the legal proceedings in our court system. The old adage, 'Justice delayed is justice denied', is not lost on us by any means. Hence, taking a leaf out of the book from our friends near and far, we decided to pursue ADR, specially 'Mediation' as a highly important, useful and easily available form of dispute resolution to be used in Bangladesh. Accordingly, BIMS has been taking baby steps in training and preparing 'Accredited and Certified' mediators in the country.

**The** 1st International Symposium on peace only goes to show our sincerity and commitment towards achieving our goal. Inauguration of the Symposium by the Hon'ble Attorney General for Bangladesh Mr. Mahbubey Alam and participation therein by the renowned participants from home and abroad as panelists, has filled us with hope for the future. We feel honoured for the all-encompassing support by all and sundry.

**I** wish to personally express my sincerest gratitude and thanks to the Chief Guest, valued panelists, all our participants and all members of BIMS who worked tirelessly to make the event a success.

**We** solicit your continued support and good will for the future.

**Samarendra Nath Goswami**  
Advocate, Bangladesh Supreme Court, &  
Chairman,  
Bangladesh International Mediation Society (BIMS)  
22 September, 2018  
Dhaka, Bangladesh



## Welcome Address

### By Chairman of BIMS

The Distinguished Chief Guest Mr. Mahbubey Alam – the Attorney General of the Government of Bangladesh, the Key Note Speaker Dr. Ramin Jahanbegloo, the distinguished speakers of this symposium, my colleagues in BIMS, ladies and gentlemen:

I feel very happy seeing all of you, who have come to participate in this symposium on ‘Nonviolence – the Path to Peace’.

All of us want peace. But what will lead us to peace is the question. We believe that nonviolence will lead to peace. Peace is disturbed when there is violence in speech or in action. If we employ nonviolent means to achieve our goals or to do any task, peace will be maintained.

BIMS is a mediation society. Mediation is an alternative dispute resolution mechanism. Someone may wonder why a mediation society should organize a programme on peace and nonviolence. The answer is simple. Mediation is a nonviolent means of resolving disputes. Yes, in other dispute resolution models, there is violence, though not physical. When the representatives of the disputants argue against each other, they hurt each other’s feelings, which is mental violence, whereas in Mediation, there is no fight for one’s rights against the other; instead both the parties are facilitated to understand their true interest and are enabled to find innovative solutions that will address the interests of both the parties and also add value.

We are indeed honoured to have Mr. Mahbubey Alam – the Attorney General of the Government of Bangladesh as the Chief Guest to inaugurate this symposium. I am very grateful to him to have accepted my request to him to inaugurate this International Symposium titled – ‘Nonviolence – the Path to Peace’. I take great pleasure in welcoming him.

Many people seem to think that violence is inevitable to achieve things. They need to realize that what is achieved through violence is not sustainable, as one violence leads to another violence. ‘An eye for an eye will make the whole world blind’, said Mahatma Gandhi. When we think of Gandhi, we think of nonviolence and vice versa. That is why, we had requested Dr. Ramin Jehanbegloo – an authority on Gandhian thoughts and principles to be the Key Note Speaker of this symposium. I am pleased to welcome him.

Dr. P. V. Rajagopal is an eminent and greatly respected Gandhian of India. I am grateful to him for helping us to organize the peace march that we did this morning, for organizing the exhibition that we have put up in this hall and for accepting our invitation to speak in this symposium. I take pleasure in welcoming him.

I welcome all the speakers who have come from different countries to speak in this symposium like Dr. Ramin Jahanbegloo, (Canada) Professor Vice Dean- Director, Global University, India, Dr. Richard L. Benkin (USA), Human Right Activist & International Ambassador of BIMS, Ms. Madeline Charles Kimezi (Tanzania) Founder, Resolution Experts, Dr. PV Rajagopal (India) Peace Activist & Founder EKTA Parishad, Jagat Bahadoor Deuja (Nepal), Peace Activist, Professor Surender Reddy, Peace Activist Mr. V. Inbavijayan, International Arbitrator Ms. Iram Majid, Accredited Mediator and Regional Director (India), BIMS, and Mr. Dr. K. S. Sarma, International Trainer on Mediation.

I take great pleasure in welcoming all of who have come in large numbers to attend this symposium.

Thank you.

**S. N. Goswami**



## Inaugural Speech by Chief Guest



**Mr. Mahbubey Alam**

**Hon'ble Attorney General For Bangladesh**

The Chairman of BIMS – Mr. Samrendra Nath Goswami, Learned Speakers of this Symposium, Ladies and Gentlemen,

It gives me immense joy to be in your midst this morning and to participate in this International Symposium on 'Nonviolence – the Path to Peace'. I congratulate Bangladesh International Mediation Society ably led by Mr. Goswami for organizing this beautiful event.

The importance of peace cannot be overemphasized. If in one word I have to tell you what the world badly needs today, I would say that it is 'peace'.

This entire world would have been a happier place to live, if only there was more peace within and between families, communities and nations.

Violence cannot lead to peace. "In spite of temporary victories, violence never brings permanent peace", said Dr. Martin Luther King, Jr. "An eye for an eye only ends up making the whole world blind", said Mahatma Gandhi. Therefore, nonviolence is the path to peace.

It is fitting and proper for Bangladesh International Mediation Society to organize this symposium, because through mediation, we can bring peace between people who have disputes. A mediator enables the disputants to understand their respective needs and focuses on the same, shifting the focus away from their positions and their rights. A mediator enables the disputants to become collaborators and problem solvers. In the process, they learn the value of interdependence. Stephen Covey said that interdependence is a virtue. If we develop that virtue, it will become easy for us to collaborate to the benefit of all, instead of confronting, which will lead to a lose-lose situation.

There is interdependence within family, between families, between communities and between nations. We can get whatever we need by cooperating and through collaboration.

Tolerance is a necessary condition for peace. Intolerance leads to conflicts. How do we develop tolerance? When we realize that we need our neighbours, that there could be emergencies when our immediate neighbours can come to our rescue, we will be able to tolerate their shortcomings. In other words, if we understand how important our neighbours are for our safety, we will be able to cultivate tolerance in us towards them. Thus, interdependence leads to tolerance.

When we realize that we too have shortcomings, we will be able to forgive the shortcomings of others.

If we are willing to give up small things for the sake of others, they will one day even give up bigger things for us.

Asserting one's right against that of the other is a form of violence. As Mediation is not concerned about the rights of the parties or their positions, but is only concerned about their true interests, mediation is nonviolent dispute resolution.

We can prevent and resolve disputes and achieve peace, if we train our minds to see things from the other person's point of view, if we develop the habit of seeking and appreciating the good in others, if we develop the habit of ignoring their weaknesses and if we are always quick to admit our mistakes.

I wish all of you an enlightening day listening to the learned speakers, who have reached here from far off places to address us. I take great pleasure in inaugurating this International Symposium to celebrate the International Peace Day, which fell yesterday.

Dr. Martin Luther King Jr. said, "Nonviolence is a powerful and just weapon, which cuts without wounding and ennoble the man who wields it. It is a sword that heals." May this symposium empower all of us with the weapon of nonviolence to promote peace and harmony on this planet. I wish the programme all success.

Thank you.

**Mr. Mahbubey Alam**  
Attorney General for Bangladesh

## **Training Activities by BIMS**

The very first international training course on Alternative Dispute Resolution (ADR) was arranged and organized by Bangladesh International Mediation Society(BIMS) at Surma conference hall of Hotel Pan Pacific Sonargaon at Dhaka, Bangladesh between 20th and 21st December 2017. A total of 27 participants attended the training. The programme was inaugurated by Mr. Justice Muhammad Mamtaz Uddin Ahmed, Chairman of Bangladesh Press Council.

### **The Trainers**

First Mr. Veeraghavan Inbavijayan the Course Director and Chief Trainer. In his personal life Mr.V. Inbavijayan is a highly acclaimed lawyer and an international Arbitrator. So far he has presided over and counselled in over 300 domestic and 14 international arbitrations. He is a visiting professor at Tamil Nadu Dr. Ambedkar Law University and Indian Maritime University. Currently, Mr.V. Inbavijayan works as a full time international arbitrator and an international trainer on mediation and arbitration.

Next was Mr. Anant Merathia, a practicing litigation and alternative disputes resolution lawyer with over 11 years of experience in India and Singapore. He is a member of Chartered Institute of Arbitrators CIArb, UK and a member of Young Mediators Initiative with IMI, Hague. He has been a Tutor at CIArb, India.

We also had Mr. Krishnayer Sankarnarayana Sarma commonly known as Mr. K S Sarma. Mr. Sarma is the CEO and Director of Life Skills (India) Training Private Limited, a Chennai based initiative for peace and development. Having a rich experience of working in many prestigious institutes and having trained rigourously on mediation and arbitration, Mr. Sarma is an experienced counsellor, mentor, coach and an accredited Mediator.

Mr. S N Goswami, the founder of BIMS, an eminent lawyer of Bangladesh Supreme Court Bar, who is also an IIAM Mediator and empaneled Arbitrator, India.

### **The Curriculum and the Conduct**

First day's training, guided by Mr. Inbavijayan began with 'Prevention and Regulation' of conflicts. This was followed by a discussion on ADR Tools, Merits and Demerits of Arbitration and Stake Holders in Arbitration. Later Universal Mediation Rules and practices was taken up and Salient features of UNCITRAL conciliation Rules and National Mediation Rules were examined.

Mr. Anant then took up the Topic of Ad hoc versus Institutional mediation. Mr. Anant further elaborated on mediation process and also court assistance. In the last session, Mr. Sarma brought forward the requirements and qualities of a successful mediator in the form of some interactive exercises where, the human interaction using appropriate psychological techniques were highlighted.

Second Day started with Mr. Inbavijayan discussing the settlement agreement in a mediation. This was followed by Forms and Contents used in drafting the 'Award' in an arbitration. Thereafter, Mr. Goswami took over and divided the class into two groups for the conduct of a Mock Mediation exercise. Conducted eloquently, the exercise generated enormous amount of interest among the participants and participation was overwhelming.

Later, UNCITRAL Model law, its adaptation by different countries including Bangladesh and its comparison with Bangladesh Arbitration Act, 2001 were examined and scrutinized. Both Mr. Inbavijayan and Mr. Anant participated in the session. This was followed by the valedictory speech and Issuance of Certificates. Lastly, a bonus session on life skills and human relations improvement was conducted by Mr. Sarma to the delight of all the participants.

Following this training, BIMS arranged for periodic discussions and classes for the participants whereby they could enhance their knowledge and remain current on the subject matter.

The 2nd Training Course on “Introduction to International Arbitration and Mediation” arranged by BIMS was held at ‘BURIGANGA’ Conference Hall of Hotel Purbani International, Dhaka between 16 and 17 February 2018. Attended by 13 aspiring mediators/arbitrators from different walks of life (retired Judicial service officers and police officers, lawyers and a number of university students), the course was second such initiative by BIMS. Prof. Dr. Mizanur Rahman, Professor of International and Comparative law, Dhaka University and former Chairman, National Human Rights Commission, Bangladesh (2010 – 2016) inaugurated the training programme. After a brief introduction by Mr. Goswami, Course Director Mr. V. Inbavijayan took over. He spoke about ADR in general so as to prepare the mindset of the participants to accept and embrace ADR. Mr. Inbavijayan informed the house about the legal aspects and/or the ways around for ADR to be more effective. He gave a brief idea about the UNCITRAL Law and Bangladesh Arbitration Act, where he praised Bangladesh Arbitration Act as one of the finest such Acts around the world. He urged upon the participants to master these laws for becoming expert mediators and arbitrators in future. Thereafter, Mr. K S Sarma, spoke on ‘Prevention and Resolution of Conflicts’. He stressed upon the fact that human relations are fraught with frictions giving rise to fire i.e., conflict and the best way to resolve this would be through mediation.

During the subsequent sessions Mr. Sarma utilized interactive methods to explain the essential characteristics of a mediator. He showed that pointing out the good qualities in a person actually encourages that person to be even better and improve upon his qualities. He stressed upon the need for a mediator to become such a person so that he can bring out the best in people and successfully mediate to resolve conflicts. Mr. S N Goswami thereafter enlightened the house about the mediation Law and its practices in Bangladesh. To give a very simplistic yet practical demonstration of modern day ADR (Mediation), the class was then divided into two for a mock mediation. The scenario was developed as a conflict regarding loan repayment between a bank and its client. After mediation, a ‘Settlement Agreement’ was reached and signed by both the parties.

Ms. Iram Majid then covered the ‘Role of Mediators’. Taking place immediately after the mock mediation, this lecture allowed the participants to clearly relate to the role and different characteristics of a mediator as has been witnessed firsthand during role play exercise of mock mediation. Finally, Mr. Sarma explained the important aspect of reading a disputant correctly and discovering the hidden agenda behind his ploy so that the issue at hand can be addressed competently. With this the first day’s programme was accomplished.

The 2nd day’s training, devoted to Arbitration, started with Mr. Inbavijayan discussing the UNCITRAL Model law in great details and pointing out the salient features of the model law. Mr. Inbavijayan stressed upon the need for all Arbitrators and mediators to be master of these laws as the basic foundation lies within. He informed the house that, upon making a decision, the arbitrator will provide a written arbitration award that serves as the settlement of the dispute and that the award issued by an arbitrator is legally binding, and enforceable by law.

Ms. Iram Majid then spoke on the 'Challenges of International Mediation'. Here the difficulty in matching time and space, language(s), local and international norms and customs, social and religious hurdles to dress code and acceptability of a mediator were examined. Ms. Iram shared her international experience, while Mr. Inbavijayan also joined in to enrich the session further.

At this stage Mr. George Poothicote, Secretary General of India International ADR Association took the floor, who was on a semi-official visit to Bangladesh. He briefly introduced his organization, described its functions and talked about its requirement and usefulness. Talking about ADR – Mediation and Arbitration, Mr. Poothicote informed the house that both processes are advantageous for individuals involved in a civil dispute, as well as for reducing court dockets and costs. So, he welcomed all the would be mediators and arbitrators in their midst. During the final session of the day and the training course, Mr. K S Sarma talked about the mediation agreement which was followed by the valedictory speech. The trainees thanked BIMS and Kovise foundation for arranging the course. Finally, certificates were distributed among the course participants by the faculty.

**The New Trainer:** The new inclusion this time was Ms. Iram Majid. A practicing lawyer of Delhi High Court, Ms. Majid is an IIAM accredited mediator and enlisted on the panel of Delhi High Court list of mediators. She has varied experience on mediation and arbitration both, domestically and internationally.

**The Latest:** As this souvenir reaches the reader, BIMS has already completed the 4th International Training course on Mediation and Arbitration for about 31 participants. The specialty of this course is the fact that, this time it is a true International Course with three participants from India. BIMS also managed to send 3 batches of BIMS trained mediators to Indian Institute of Arbitration and Mediation (IIAM) for a 40 hours course for IIAM accreditation as Grade 'B' Mediators having certificate in International Business Negotiations, and yet more are sent for the 15 hours training on arbitration at IIAM. Thus the relentless forward march is on in full swing, and the fruits of the hard work should begin to benefit all within a very short span of time.

Dr. Rajib Kumar Goswami  
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Advocate, Bangladesh Supreme Court  
Accredited Mediator, IIAM & BIMS

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# MEDIATION – realizing the potential and designing implementation strategies.

By Dr. Justice Dhananjaya Y. Chandrachud  
*Judge Supreme Court of India*

## Instrumental and Intrinsic Functions

The present day discourse on the need to evolve Alternative Dispute Resolution mechanisms tends to focus upon the large, and almost unmanageable, docket of litigation before Courts. The rationale for ADR is perceived in terms of reducing the arrears of cases in Courts. The premise that is articulated in the advocacy of ADR is the inability of Courts to handle the existing file of cases. Alleviating the burden of arrears is undoubtedly one of the important objectives. Yet, particularly in the context of mediation, it needs emphasis that this is only **one** of the important objectives. Mediation as a processual intervention in the legal system fulfills other instrumental and intrinsic functions which are of an equal, if not greater importance. In its instrumental function, mediation is a means to fulfilling stated objectives. The intrinsic function of mediation emphasizes the value of mediation as an end in itself.

While the problem of arrears has assumed serious proportions, necessitating a search for alternates and supplements to litigation which is the traditional mode for the resolution of disputes, there is, equally, a need to focus upon the hallmarks of the judicial process. The foundation of the judicial process in India is the establishment, over the last century, of a strong convention of independence and impartiality. Objective dispensation of justice by the application of defined legal principles to factual problems which arise before the Courts is the basic premise of the judicial function. A vibrant judicial system is the basis of a flourishing democratic tradition. Rarely, if ever do democratic institutions thrive in the absence of judicial independence. However, there is now also a realisation that the **efficiency** of judicial functioning plays a critical role in democratic societies. Courts have a vital role to play in fostering conditions of economic growth. The legal system must create conditions in which trade, business and industry can visualise solutions that are arrived at with dispatch, predictability and certainty.

In the search for alternates to litigation, it would be necessary to dwell upon those facets of the judicial process which promote the ability of the system to discharge the expectation that Courts and Judges render justice impartially and objectively. In developing mediation as an alternate to the more traditional litigative avenues to resolving disputes, emphasis must be placed on two distinct issues. The first is to assess the extent to which mediation as a technique can seek to avoid those problems which beset the litigative system. The second is, the overbearing public interest in ensuring that the basic premise underlying the functioning of the judicial system, on which is founded the commitment of our system to the rule of law, is not obliterated in the search for alternates.

The first issue relates to designing an appropriate procedural framework for mediation that would obviate the problems which confront litigation in India. That issue can essentially be conceived as a problem of

- (i) creating an appropriate regulatory framework within the law;
- (ii) developing capacities; and
- (iii) implementing strategies which would enable the Bar and the Bench to undertake a co-operative venture in promoting expeditious and inexpensive justice: Justice which is flexible

enough to meet the interests of disputing parties and to create remedies which may not normally be available in a traditional litigative set up.

The second issue which has been outlined earlier, is equally if not more fundamental because, it raises basic questions of ethics and of the probity and integrity of any alternative framework. While existing judicial institutions have to meet the serious challenges of the day, the alternates which are created should not be at the expense of sacrificing those very precepts and principles that have contributed to generating faith in the system of administering justice.

### **Finding solutions to the pitfalls of Litigation**

Mediation at one level of perception is a means of avoiding the pitfalls of litigation. The problems which arise in the resolution of disputes through litigation are well known. These are, broadly

- (i) delay;
- (ii) expense;
- (iii) rigidity of procedures; and
- (iv) a reduction in the participatory role of parties.

### **Procedural rigidity**

Courts as institutional mechanisms for the dispensation of justice have traditionally placed a great deal of emphasis on the application of defined procedures for, procedure subserves the object of dispensing even handed justice. Every litigant before the Court can expect to be treated by the Court as indeed would any other litigant and every litigant can have an expectation that he can seek access to justice in accordance with the same procedural formulation as any other litigant. Yet, over time procedural law has grown to be rigid. Some part of that rigidity is necessary in order to ensure the preservation of the basic probity of the judicial process. Natural justice demands that the Judge hear parties and that the Judge hears them in the presence of each other. A Judge hearing a party in the absence of the other would be an anathema, fundamentally at odds with judicial propriety. Mediation law recognises on the other hand that a mediator is **not** a judge and must possess at his command a procedure which is flexible enough to hear parties separately, at some stage of the proceeding should he consider it necessary.

### **Participatory roles**

Besides the rigidity of procedure, Courts allow for a limited participatory role for parties. The judicial system is essentially based upon a presentation of submissions of parties before the Court through lawyers whom the parties appoint. The legal profession performs a significant role in the dispensation of justice.

The adversarial system conceives of the presentation of rival submissions of lawyers, involving conflicting view points, as a necessary adjunct to the effort of the Court to investigate facts, determine law and arrive at outcomes which are in consonance with justice.

The individual client for whom the litigative system provides a remedy may however perceive a sense of being marginalised in the presentation of his viewpoints and interests before the Court. Going by the experience of lawyers and Judges, parties in person pose special problems to justice dispensation. Bereft of legal advice, litigants who appear before the Court in person require the discharge of special duties and obligations in order to ensure that justice is done. Litigants who contest their cases in person are often times seen to give vent to their emotions, opinions, perceptions and interests. The Court is not necessarily concerned with all of these since the primary duty of the Court is to dispense justice according to law.

The example of the party in person is, however, significant to the discourse on mediation because it emphasises the expectation of the lay person that the judicial process should be simple, that it should be a process in which his emotions, interests and concerns receive empathy and that the process should be one in which there would be a **practical** as opposed to a formal legal resolution of the controversy. Accepted judicial remedies are not necessarily geared towards accommodating all the interests of litigating parties. Mediation provides a real alternative to litigation. At an instrumental level, mediation has the potential to relieve the system of problems such as delay and expense. At a more intrinsic level, it would result in a process which is less rigid, provide for a distinct participatory role for disputants and allow solutions which go beyond formal legal remedies.

### **The Role of the Mediator : Facilitation not adjudication.**

The essence of mediation lies in the role of the mediator as a facilitator. The mediator is not an adjudicator. Unlike the Judge in a traditional Court setting or for that matter even an arbitrator, the mediator is neither a trier of fact nor an arbiter of disputes. The role of the mediator is to create an environment in which parties before him are facilitated towards resolving the dispute in a purely voluntary settlement or agreement. The mediator is a neutral. The neutrality of the mediator is akin to the neutrality of a Judge but the role of the mediator is completely different from that of a Judge. The mediator does not either deliver judgment or dictate to the parties the terms of the agreement. As a neutral, the function of the mediator is to enable the parties to arrive at a mutual and voluntary agreement. This, the mediator can achieve if he understands and perceives the nature of his function correctly. As a facilitator, the mediator has to understand the underlying issues between the parties. In order to do so, the mediator has to open up communication between the parties and between the parties and himself. The mediator has to enable the parties to understand their own interests and to understand the interests of the disputing party. The mediator must enable parties to distinguish between their positions and interests. In the process of dialogue before him the mediator enables parties to appreciate and evaluate their own interests and those of each other. All along, as he facilitates communication between the parties, the mediator controls the process ensuring on the one hand that he is not judgmental or on the other, an advisor. The effort of the mediator is to ensure that through the mediation dialogue parties arrive at a solution which is in their best interest. Like many other branches of law, acronyms are not unknown to mediation and it has been stated that in enabling parties to move towards a settlement, the mediator has to reflect on the precepts of BATNA, WATNA and MLATNA.

- BATNA stands for the ‘**Best Alternative to a Negotiated Agreement**’;
- WATNA for the ‘**Worst Alternative to a Negotiated Agreement**’ and
- MLATNA for the ‘**Most Likely Alternative to a Negotiated Agreement.**’

The essence of mediation is that it (i) focuses upon the parties’ own needs and interests, (ii) provides for a full disclosure of competing interests and positions (iii) confers upon the parties a right of self determination, (v) allows for procedural flexibility and (vi) maintains privacy and confidentiality. The mediator, it is well settled, is the guardian of the process and it is the mediator who has to ensure that parties maintain complete confidence in the proceedings.

### **Stages in Mediation**

A typical mediation involves several stages. These stages are neither rigid nor inflexible and can be modulated to achieve the desired outcome.

- Mediation begins with an **opening statement** in which the mediator establishes his own neutrality, explains the process to the parties and informs them that all that is said in the course of the proceedings is confidential and will not be utilised if either of the parties takes recourse to a Court



of law for resolving the dispute. The mediator has to engender the confidence of parties by creating an environment that would promote constructive negotiation.

- The opening statement of the mediator is followed by the **opening statement of the parties** themselves in which parties would explain their case as each of them views it and their own perceptions and interests.
- The statements by parties are followed by the stage of **summarising and agenda setting**.
- The next stage is the **exploration of issues**. The mediator helps parties in focusing upon the issues which arise and in exploring those issues further.
- This is followed by **private sessions or caucuses** between the mediator and each of the parties separately. During the course of these private sessions, the parties may exchange information with the mediator so as to enable a candid and frank assessment to be made of the interest of each party. A party in a private session may require the mediator not to disclose to the other party information which has been provided in the course of the session.
- The private sessions are then typically followed by a **joint negotiation session**. Private sessions may again be resorted to by the mediator to dislodge a situation of an impasse.
- Finally, the mediator will facilitate parties to move to an **agreement** which is a voluntary settlement arrived at between the parties for resolving the issues between them.

### **Structured informality**

Mediation is a process which is structured but, which at the same time does not involve the rigidity inherent in conventional litigation settings. The mediator conducts the proceedings in an informal manner bearing in mind the fundamental principle that his role is neither to advise nor to adjudicate. Rules of evidence do not apply to the conduct of a mediation proceeding. Parties are at liberty to place whatever information that they consider relevant. Information which cannot legally be received in evidence in a Court of law may yet be relevant to a practical resolution of the issues between parties. Hence, all such information can be received. Parties to a mediation can be represented by legal advisors but they are invited to directly participate by speaking in the course of mediation. A direct interface with the mediator is encouraged.

### **Creating broad based remedies**

Significantly, parties to mediation proceedings are not confined to judicial remedies. For instance, the true interests of parties may lie in supporting a previous relationship by ironing out outstanding problems. Mediation enables parties to look beyond the formal confines of a legal dispute by creating arrangements between them that would provide practical solutions which are mutually beneficial. These outcomes stand the greatest chance of successful enforcement because all the parties concerned have perceived them to be in their mutual interest. The role and function of the mediator extends to facilitating an appreciation on the part of the parties of the full range of their interests and positions. The remedies which the mediator assists the parties in devising are relevant not merely to the narrow confines of the dispute between them but are appropriate to the background of the relationship between the parties and the relationship which they wish to create for themselves in the future. This is a matter of great importance because in a typical situation where there is an on going relationship between the parties, whether business or personal, mediation enables parties to explore and implement options that will strengthen a future relationship.

Litigative remedies which parties apply for in a conventional judicial set up may often result in the rupturing of a relationship. Declarative or injunctive remedies, and remedies by way of damages that

Courts provide for in a judicial setting may in certain cases lead to a cessation of relationships. Mediation has the potential to obviate this by enabling the mediator to allow parties to perceive the immediate dispute between them in the wider context of an overall business, professional or personal relationship and to resolve their problems by fashioning solutions that would protect their long term interests.

### **Providing enforceable outcomes.**

The entire process of mediation is in that sense not adversarial in nature. The outcome of the mediation is not a win for one party and a loss for the other. Both parties agree in the course of the mediation to a solution which is mutually beneficial. Agreements which are entered into in the course of mediation are acceptable and stand the greatest chance of being implemented because the outcome of mediation is not imposed by a third party adjudicator but represents a solution which has been voluntarily agreed to by mutual agreement. The law protects the sanctity of negotiated settlements and recognizes their enforceability in India by placing them at par with an arbitral award on agreed terms. Such an award is enforceable as if it were a decree of a Court. The travails of a litigant, it is said, begin after a decree is passed. This problem is sought to be obviated since a settlement arrived at in the course of mediation is conceived by the parties to be in their own interests. Mediated outcomes are less likely to be evaded by parties because they represent an assessment by parties of what is in their best interest.

The importance of mediation lies in the fact that it has the potential to provide an expeditious, economical and private resolution of the problems that have arisen between the parties. Most importantly, the process emphasises the participatory role of parties. The resolution of the dispute depends upon the parties themselves. Ultimately, each party knows best its needs and interests. Mediation enables each party to give expression to its perceptions and view points in a confidential and private surrounding. Every party is facilitated by a mediator to appreciate the perception of the disputing party to the problem at hand. Parties can explore all the facets of the relationship between them. Some of them cannot be dealt with in a conventional Court setting where reception of evidence is governed by strict rules. In matters relating to business and personal relationships, confidentiality is an important value for disputing parties. The negative publicity attendant upon a Court case can well be obviated when the parties deal with each other in a mediation proceeding which is private and the confidentiality of which is protected by the law. The scheduling of mediation can typically be arranged to suit the convenience of the parties so as to facilitate an early completion.

### **The Arbitration and Conciliation Act, 1996.**

The Arbitration and Conciliation Act, 1996 has laid down in the provisions of Chapter III a basic framework for the conduct of conciliation proceedings. The salient features of the process codified in the Act are briefly thus:

- (i) The Act postulates that there must be a written invitation to conciliate by one party to another and Conciliation begins only when both parties are agreed;
- (ii) The process involves the submission of written briefs by parties to the conciliator; briefs which outline the general nature of the dispute and the points at issue. The conciliator may call for further documents and information whenever he thinks fit;
- (iii) The conciliator is neither bound by the provisions of the Code of Civil Procedure, 1908 or by the Evidence Act;
- (iv) The function of the conciliator is to assist parties in an independent and impartial manner in an attempt to reach an amicable settlement of their dispute;

- (v) The norms which guide the conciliator are those of objectivity, fairness and justice. In doing so, the conciliator has to have regard to the rights and obligations of parties, the usages of the trade, the circumstances surrounding the dispute and to previous business practices;
- (vi) The conciliator may suggest to the parties proposals for settlement at any stage and these need not be either in writing or accompanied by reasons;
- (vii) Communications between the conciliator and the parties may be oral or in writing and the conciliator may meet parties either jointly or separately. The law provides that a party may require that the information furnished to the conciliator may be kept confidential;
- (viii) The process of settlement may commence with the formulation of a possible settlement when it appears that there exist terms of a settlement. Consistent with the flexibility of the process, the terms of a proposed settlement can be reformulated;
- (ix) The settlement is final and binding after parties have signed it. Thereupon, the settlement has the same force and effect as an arbitral award on agreed terms and it can be enforced as if it were a decree of the Court;
- (x) The law protects the confidentiality of all matters relating to conciliation proceedings and even of settlement agreements;
- (xi) The process is purely voluntary and can be terminated even at the behest of one party who desires not to conciliate;
- (xii) No arbitral or judicial proceedings can take place during the pendency of conciliation except to preserve the rights of parties;
- (xiii) A conciliator shall not act as an arbitrator or Counsel in the dispute and there is an embargo on the presentation of a conciliator as a witness for any of the parties; and
- (xiv) Proceedings in conciliation, admissions by parties and the terms of a proposed settlement are not admissible in evidence in any other proceeding.

#### **The need to modify Section 89 of the CPC.**

Section 89 of the Code of Civil Procedure, 1908 as amended by the Code of Civil Procedure (Amendment) Act, 1999 enunciates provisions for the settlement of disputes outside Court. The difficulty with the provisions of Section 89 lies in the fact that it mandates that where it appears to the Court that there exists an element of settlement which may be acceptable to the parties, **the Court shall formulate the terms of settlement** and after receiving comments of the parties may reformulate the terms of **possible settlement** after which parties may be referred to arbitration, conciliation, judicial settlement or mediation. The requirement that the Court must formulate the terms of possible settlement places a significant burden on the Court even before referring the parties to mediation. The Court in such a case may be required to spend a considerable degree of time and effort in imploring parties to settle their dispute and to draw up the terms of a possible settlement. The very object of conciliation or mediation is to place the parties under the facilitative function of a mediator who will then enable them to explore their interests and to consider various options for negotiating settlements. Placing the burden of formulating the terms of a possible settlement on the Court even before the parties are referred to mediation is thus not appropriate because it is only when parties have taken recourse to mediation that the full range of option can be explored by them.

#### **Strategies for implementation.**

The development of mediation as a viable alternative to litigation is still in the incipient stages in India. Mediation centres have recently been set up by a few industry and trade associations. Similarly,

professional lawyers have in certain isolated instances attempted to develop into fullfledged professionals with expertise in mediation. These instances are, however, sporadic and the overall potential of mediation still remains to be explored.

Strategies for successful implementation of mediation must, be carefully assessed and a conscious effort has to be made towards the evolution of a process that will be acceptable to the society at large. In achieving a high level of acceptability for the mediation process, several issues need be focused upon and these include:

- (i) Developing awareness;
- (ii) Advocacy;
- (iii) Building capacities;
- (iv) The creation of an institutional framework; and
- (v) Actual implementation.

With the large backlog of cases in India, mediation has been regarded as a means of reducing arrears by inviting parties to agree to facilitative solutions. Besides regarding mediation as a strategy for the control of litigation, its intrinsic value is of equal, if not greater importance. Mediation must be inculcated as an intrinsic element of the prevailing legal culture so that it is perceived by a party which may be involved in a possible dispute as the first or the most preferred option. Mediation in that sense must evolve in the long run under the aegis of a regulatory framework that is not necessarily dependent upon Courts or judicial institutions. However, at the present stage there can be no gainsaying the fact that the Bench and the Bar have to fulfill important responsibilities towards achieving the goal of creating a viable mediation strategy.

#### **Awareness and advocacy**

The first and foremost step is the creation of awareness and the need for advocacy towards mediation and conciliation. Litigation is an entrenched form of dispute redressal. In order to generate confidence in mediation and to encourage recourse to it, a widespread awareness needs to be created amongst consumers of justice. A heightened awareness is necessary within the legal profession as well. In this context, it would be interesting to note that two of the most sought after topics for discussion in Lawyers' conferences in the State of Maharashtra have been, to use acronyms again, I.T. and ADR. There is a considerable degree of curiosity, if not enthusiasm on the possibilities of mediation. An awareness of mediation techniques, of the contents of mediation and of the mechanism which has been devised by the law must be sufficiently created so as to promote a greater degree of acceptability.

#### **Overcoming Resistance to change**

There may well be, not quite surprisingly, resistance on the part of the legal profession towards the acceptance of mediation because of the fear that a reduction of litigation may ultimately result in a dilution of the work that is available to lawyers. In order to secure the co-operation of the members of the legal profession, it would be necessary to allay those apprehensions by spreading the message that mediation does not postulate the destruction of the traditional sources of work for the legal profession. On the contrary, what it does postulate is an assumption of additional roles by the legal profession, roles which can be assumed by imparting knowledge and training. Conciliation can be promoted only if all segments of the legal profession including the Bar Councils and other professional bodies spread awareness amongst lawyers of the potential for and the benefits of mediation. Above all, there has to be a realization that the service which is rendered by the legal profession is in the cause of justice to the

common man. The needs of litigants must occupy a position pre-eminence. Any method of ADR which ensures expeditious and inexpensive justice to the ordinary litigant must, therefore, be supported.

### **A shift in the focus of the legal profession.**

Traditionally, the role of the lawyer in our legal system is associated with the functioning of Courts. Mediation does not postulate the displacement of the lawyer. Mediation does, however, contemplate a shift in the focus of the legal profession. The role play in mediation would require lawyers to be effective participants in dispute settlement outside the Court. More importantly, the role and function of the lawyer has to be radically modified from being a participant in formal legal resolution of disputes to being an important functionary who will guide parties in the true realization of their interests and towards achieving negotiated settlements. The most fundamental change in perception has to be that mediation must provide effective intervention **before** disputes assume the formal legal character of a Court case. The vital role of the legal profession is being associated through the mediatory process of being willing participants in dispute settlement.

This sense of awareness has to be created in the legal profession on an urgent basis by promoting a dialogue within the profession and between the professional and non-professional bodies. A determined effort has to be made to acquaint members of the Bar of the importance of mediation and of the special obligation which the mediatory process casts upon them. Professional bodies (such as the Bar Council in the State of Maharashtra) conduct refresher courses for lawyers and it would be appropriate if knowledge and awareness in mediation is imparted through such bodies. The Bar Council performs an important role in relation to legal education and it is, therefore, only legitimate to expect that formal changes in the curriculum for legal education are brought about. Legal education centered on precedents and cases must now accommodate practical training in negotiation, conciliation and mediation. Some of the premier law schools in the country have incorporated ADR techniques as a part of the curriculum but this development has largely been isolated and sporadic. The programme of awareness and advocacy must extend to students of law who will be lawyers of the morrow. The success of the movement towards the mediation will depend in a large measure upon the co-operation of the legal profession. Awareness, advocacy and the need for positioning senior members of the Bar in positions of leadership is the sine qua non in order that mediation is able to develop into a viable system.

### **Creating capacities.**

A strategy for the effective development of mediation techniques has to be informed by the need to create capacities within the system. Mediation is a structured discipline containing as it does, elements of science as well as of an art. Before society accepts mediation as a viable alternative, a high degree of confidence has to be generated. Imparting formal training for mediators is a necessary step towards generating that confidence. Selecting women and men of integrity for imparting training needs emphasis. The flexibility and informality of mediation has the potential for benefit but, it ought not to be misused. Trust, confidence and acceptance of the mediator is a critical concern.

The mediator has to be trained to develop effective communication skills. Training in mediation has to allow the mediator to develop job specific skills such as the skill of **active listening**. Active listening is the process by which a mediator decodes a verbal or non-verbal message, identifies the basis for the message being expressed and then restates the message using positive non-adversarial language. Sometimes the mediator has to carry out a **neutral reframing** of a party's positions in a manner which would be inoffensive to the other. The mediator has to be trained to **summarise** the essence of statements by parties regarding issues, positions and terms of agreement. The mediator has to learn to **acknowledge**, which is an act by which he communicates having accurately understood the statement of a party and its importance. The mediator has to **set the agenda** or the order in which issues, claims and

settlement terms will be discussed. There are stages in the mediation when the mediator has to **defer** or postpone in response to a question raised by one of the parties. Often times the mediator has to **redirect the process** by which he shifts the focus from one subject to another. The **choice of words** by a mediator is extremely significant because his language must be suggestive of collaboration. The mediator has to eschew adversarial terms. Language which polarises the parties has to be avoided. An astute mediator would similarly avoid recourse to formal legal terminology such as 'liability', 'damages', 'faults' and 'rights'. The language of the mediator must promote the object of achieving self determination, identifying solutions, an open examination of alternatives and the exploration of alternative settlement proposals.

The role play of the mediator is a key ingredient in the qualitative success of mediation. A band of trained mediators is thus critical if mediation is to acquire a high degree of acceptability. The importance of training being imparted to fairly senior members of the Bar has to be emphasised. The training that would be required to be imparted must be both for the Bench and the Bar. In the State of Maharashtra a beginning has been made by holding in recent months a week long session of mediation for Judges drawn from diverse courts in the City of Mumbai. An effort was made recently at a two day colloquium for imparting basic training in mediation techniques to a group of about 30 lawyers who had volunteered for training. These are only the first steps which have been taken. A systemic strategy has to be developed for imparting training. Parties are most likely to trust a fairly senior professional to be a mediator. Training must ideally be imparted by inviting the participation of those members of the Bar who have at least 15 years' of experience. The association of senior members of the Bar will enable the process of mediation to have the benefit of not merely their experience and knowledge, but of a practical and common sense approach to problems which lawyers by their proximity to society can utilise.

### **Courts and Mediation.**

Mediation does not **necessarily** require the association of Courts and judicial institutions. Yet, particularly in the incipient stages Courts would have to discharge important functions in relation to ADR techniques. This is quite apart from the position that as a matter of law, Section 89 of the Code of Civil Procedure, 1908 does postulate an affirmative role for the Courts in promoting ADR techniques. A significant part of the focus of mediation in India is on the functional relationship between ADR techniques and a reduction of arrears. Mediation in order to be successful has to be supplemented by Court evolved techniques of case management that would enable the Court to oversee the process of settling disputes through mediation. The Court has to be aloof from the contents of the actual mediation process because, parties must be free to discuss issues in dispute between them with a high degree of candor and without being affected by any possible judicial proceedings. Yet, on the other hand, it is necessary for the Court to undertake the process of inculcating a habit of seeking recourse to mediation as a preferred option to litigation.

### **Pilot projects and Case Management.**

No strategy of the kind can succeed if an effort is made to apply it initially in all cases and to all Courts. Instead, it would be appropriate for Courts to select particular types of cases which may be amenable to mediation. Mediation is flexible enough to be successfully applied to a whole range of cases. At one end of the spectrum are commercial disputes which require solutions that are practical. At the other end of the spectrum are elementary private disputes which do not involve complex questions in all cases. The success of mediation will depend upon the initial application of the process on an experimental basis to small pilot projects developed in specified Courts in selected cases. The experience which has been gained and the lessons which have been learnt can then be extrapolated on a larger canvass. In Courts having Original Jurisdiction, including those High Courts which have such

jurisdiction, it would be most appropriate if a few cases are listed out every day for case management directions. In the course of the case management hearing, the Presiding Judge may best explore together with Counsel whether a recourse to mediation would be appropriate in the facts of each case. The intervention of the Court will facilitate a regulation of the process of mediation in terms of fixing time schedules within which the process should be carried out, the fees of mediators and the resolution of the disputes in terms of settlement agreements. The Courts, as indeed the Bar, have thus a vital role to play in the success of any implementation plan for mediation. Judicial supervision, particularly by the Superior Courts is essential to ensure that ethical concerns are duly observed by mediators. The setting up of Centres for Mediation by the High Courts themselves will be a desirable first step. A panel of trained mediators can be set up, to whom cases can be referred for mediation. The requirement of compulsory recourse to mediation in certain categories of cases, before the Court is moved can be considered.

Mediation has significant potential not merely for reducing the burden of arrears, but more fundamentally for bringing about a qualitative change in the focus of the legal system from adjudication to the settlement of disputes. The success of mediation will depend not merely upon the evolution of an appropriate legal and regulatory framework, but upon addressing basic issues of human resource development. Inducing a system to evolve from a litigation oriented approach to a more curative or preventive approach involves much more than the development of law. The development of law is an important step, but the effort in this paper has been to suggest that various other key factors are involved. Meeting the resistance to change, creating awareness in society as well as amongst other participants of the benefits of the mediation process, developing capacities and involving the Bench and the Bar in a co-operative effort are critical elements in the success of the process. Above all, confidence in the mediation process will be fostered only if the mediator discharges in positive terms the ethical concerns of a process to which the role of the mediator is central.

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# Cosmopolitan Citizenship and Peace Education

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## Introduction:

Humanity no longer believe in peace. It obviously goes on talking about peace and how it is preferable to war, but the hearts of human beings are no longer in it. However, we cannot say that peace talks have given way to acts of war and that we are living through an “unachievable peace”. Actually, our world is as uncertain about the future wars it will prepare as it is about the peace it might hope for. Does this mean that the crisis of peace we are living through is more serious than our fear of war? Modern philosophy’s strongest assertion was we *are* what we *will*. However, we know from the bitter experience of the two World Wars in the 20<sup>th</sup> century and a great number of regional wars that we are no longer what *we will*, and that we understand less and less about the way humanity is forced into bloody wars while willing peace. Modern philosophers certainly knew of a possible conflict between what *we do* and what *we will*, and they understood that the phenomenon of peace is an end result of the quality of the *we do*, or as the coincidence of the *we do* and *we will*. For the ancients as for the moderns, it was obvious that an agent could no longer attain peace when he/she lacked the capacity of doing peace.

Historically, human beings first discovered peace when they discovered its impotence and not its power. When we speak of the impotence of peace and the limits set to the will to peace, we are reminded by what St. Augustine says in his *Confessions*: “For the will commands that there be a will, it commands not something else but itself. . . Were the will entire, it would not even command itself to be, because it would already be.”<sup>1</sup> However that may be, what we usually understand by willing and acting, peace has grown out of this conflict between a willing and an acting self, out of the experience of an I-will-and I cannot act. Since the whole problem of peace arises for us from this articulation of willing and acting, we find it difficult to realize that there may exist a peace which is not an attribute of the will but an accessory of acting. This articulation is ultimately rooted in the Greek verb *arche*: to begin and to lead, and in the corresponding Latin verb of *agere*: to set something in motion. Peace as a form of acting is a beginning by which something new comes into the world. Peace, therefore, is not merely a desirable alternative to war; it is an imperative if we are to change the world and survive. But who says “peace” says “peaceful coexistence”, which takes us to the idea of one humanity and one world. We frustrate our destiny if we continue to base our hopes on a world of divisions, hatreds and sectarian quarrels, each of us arrogating to ourselves the larger share, if not the monopoly, of national, civilizational and moral superiority. The path to peace is, therefore, that of cosmopolitan conversations across cultural, religious and political boundaries.

When the ideas of cosmopolitan conversation and citizenship were taken up in the Western world through the Stoics, it meant not only insisting on the spiritual affinity of all human beings, but also on

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<sup>1</sup> Saint Augustin, *Confessions*, VIII, 9



the idea of world peace. Nowhere was Stoic cosmopolitanism itself more influential than in the work of Erasmus of Rotterdam who drew on ancient cosmopolitanism to advocate the ideal of a world-wide peace. Emphasizing the unity of humankind over its division into different states and peoples, by arguing that humans are destined to live in harmony, Erasmus pleaded for national and religious tolerance and regarded peace as the best way to maintain the lively plurality of outlooks and strivings. Erasmus in his *Querela Pacis* has a personified Peace complain bitterly about the bellicose capabilities of all men, including rulers. According to him: "... if there is nothing more calamitous to mortals, and more detestable to Heaven, than war, I ask, 'How, in the name of God, can I believe those beings to be rational creatures; how can I believe them to be otherwise than stark...?'"<sup>2</sup> Erasmus, therefore, broadens the problem of peace, by deploring all forms of conflict, whether economic, political, and religious, as unworthy of human beings. Here is the root of the ethics of peace which we also find in his *Institutio Principis Christiana (The Education of a Christian Prince)*. Although addressed to a Christian Prince, Erasmus's instructions go beyond one simple confession. Erasmus provides rulers of all confessions with the lesson of being involved in politics without being greedy, arrogant and corrupted. As he notes: "If you want to make trial of yourself with other princes, do not consider yourself superior to them if you take away part of their power or scatter their forces, but only if you have been less corrupt than they, less greedy, less arrogant, less wrathful, less headstrong."<sup>3</sup>

As we can see, a god prince is a prince of peace who not only acquires the consent of his subjects, but who also is not a slave master and does not impose war on others. Therefore, for Erasmus, the basic standard of good rulership is to recognize that nature has created all men equal and the basic moral quality of human beings resides in a cosmopolitan citizenship shared by all.

### **A Sense of Cosmopolitan Belonging**

Citizenship has been a central concept of political thinking since its beginning. It has often served as a frame of reference even when not explored as such. From the well-known quote by Socrates, "I am a citizen, not of Athens or Greece, but of the world"<sup>4</sup>, reported by Plutarch, to Mark Twain's saying: "Citizenship is what makes a republic"<sup>5</sup>, citizenship has served to designate a sense of belonging to a community and the duties and responsibilities that this brings. Aristotle's teleological definition of "citizenship" as the shared pursuit of virtue that is excellence is elaborated somewhat to suggest that the citizens of a political community are partners that pursue a common good.<sup>6</sup> Presumably Aristotle means to imply that man has no reality without being a citizen, because an individual has no meaning without being a citizen. The *zoon politikon* as which Aristotle saw man cannot be thought outside political

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<sup>2</sup> Erasmus, *The Complaint of Peace*, London, 1795, p. 3

<sup>3</sup> Erasmus, *The Education of a Christian Prince*, New York: Columbia University Press, 1936, pp. 133-134, 150-151

<sup>4</sup> Plutarch, *On Exile*, 600f-601a, in volume 7 of the Loeb Classical Library edition of the *Moralia*, trans. Phillip H. De Lacy and Benedict Einarson (Cambridge, Mass.: Harvard University Press, [1959] 2000).

<sup>5</sup> Twain, Mark: from Mark Twain's Speeches, "LAYMAN'S SERMON" given for the Young Men's Christian Association at the Majestic Theatre, New York, March 4, 1906 in Cullen, David: "What does it mean to be an engaged global citizen?", [www.opendemocracy.net](http://www.opendemocracy.net), 26 March 2007

<sup>6</sup> Aristotle. 1962. *The Politics*. Trans. by T.A. Sinclair. New York: Penguin Books.

citizenship; anyone trying to live such a separate life would be either a God or a beast. But Aristotle draws our attention to citizenship as a form of political for the sake of noble actions and not only for the sake of living together. The ancients were never concerned with what has come to be known in modern times as the private issues, the personality of groups and corporate bodies. What is political is what is seen in common. Arendt borrows the ancient, theatrical concept of *persona*, the mask that actors wore during plays that covered their faces but allowed their voices to resonate through, to explain the difference between a private individual and a citizen. Arendt opposes *persona* to natural man, who is outside the range of law and the body politic of citizens, and that the concept of *persona* suggests the existence of a community of law which gives a man the mask of a legal person. We can conclude that the concept of *persona* suggests the existence of citizenship as a common world. Here, the important point is that the concept of *persona* relates both to citizen and polity. *Persona* is a personalized form of body politic.<sup>7</sup> A citizen as *persona* has a sense of belonging and a membership status. The fact that a citizen is an actor in the political scene supplies the basis of freedom and protects citizenship from barbaric violence. As such, citizenship is a different name for interchange of opinions. It is this interchange that makes citizenship open to freedom and mutual respect. This sense of civic togetherness is confirmed by the idea of friendship as a right of sociability. But it is well to remember that *koinos nomos*, was an Athenian definition of citizenship, not a cosmopolitan approach to citizenship. Similarly, for the Romans, the *orbis terrarum*, was the Roman *civitas* extended to non-Romans. This is what Cicero understood by the *humanitatis societas* and by the *commune humanitatis ius*. This is reminiscent of the words of Marcus Aurelius: "If reason is common, so too is law; and if this is common, then we are fellow citizens." Stoic insights of this kind were preserved in modern times not only with the Erasmian calling for peace, but also in the humanistic discourse of Francisco de Vitoria, in the political thought of Kant and in a more updated and refined form in the Gandhian moment of nonviolence.

### **Kant and Cosmopolitan Citizenship:**

In 1539, the Spanish theologian Francisco de Vitoria delivered a now celebrated lecture at the University of Salamanca with the title "On the American Indians." He began with a question: "By what right (*ius*) were the barbarians subjected to Spanish rule?"<sup>8</sup> Though imperialistic in nature, Vitoria was also drawing on a long ancient and humanistic discourse in favor of a peaceful access to all parts of the world, itself Stoic in origin. According to Seneca, the gods had distributed their goods unequally over the surface of the globe so as to drive men to communicate with one another. In this way, such right of communication was also perceived as a sense of the universality of humankind. We find echoes of it in what the Swiss diplomat Emeric Vattel, whose 1758 *Le Droit des gens ou principes de la loi naturelle* became the standard textbook on natural law in the second half of the eighteenth century, called the "ties of the universal society which nature has established among men."<sup>9</sup> We all therefore can be said to possess as humans an innate urge to a shared humanity. As Kant also remarked "a universal

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<sup>7</sup> Arendt, Hannah. *On Revolution* : London and New York: Penguin Books, 1963, 1990

<sup>8</sup> See Vitoria, Francisco de. *De Indis et de Ivre Belli Relectiones*, Washington, DC., The Carnegie Institute, 1917

<sup>9</sup> Vattel, Emeric. *Le Droit des gens ou principes de la loi naturelle*, (Nimes, 1793), I.149–50, translation by C.G. Fenwick, Washington, DC : Carnegie Institute of Washington, 1916

cosmopolitan existence” was the “highest purpose of nature,” and the “matrix within which all the original capacities of the human race may develop.”<sup>10</sup> Relying upon the same Stoic notion of communication, as the basis for sociability, which Vitoria had, Kant calls upon the concept of “universal community” within which it is possible for mankind to be at once both citizens of a nation and full members of the society of the citizens of the world. All citizens thus have the right “to try to establish community with all and, to this end, to *visit* all regions of the world.”<sup>11</sup> Kant’s vision of the “universal *cosmopolitan existence*” as the “highest purpose of nature” depends, however, upon a *legal* order in which there are established ‘lawful external relations among states’ and a ‘universal civic society’.<sup>12</sup> Criticizing the Hobbesian nature of the Westphalian international order, Kant maintained that the idea of a cosmopolitan citizenship was a duty everyone ought to fulfill by ‘bending the knee before right’. From this perspective non-dialogical citizenship appears more as an aberration than as the fate of political modernity. According to Kant, humanity is ‘by its very nature capable of constant progress...’ He formulated the issue in *What is Enlightenment?* In the following manner: “Men will of their own accord gradually work their way out of barbarism so long as artificial measures are not deliberately adopted to keep them in it.”<sup>13</sup> Following Rousseau, Kant identifies as the distinctive feature of humanity the faculty of *self-perfection*. So understood, human beings are capable of determining for themselves the form of their social interactions with one another, by adopting shared principles for the establishment of a cosmopolitan law. “It is as if [nature] had cared more about [the human being’s] rational *self-esteem* than his being well off.”<sup>14</sup> Consequently, we are capable of overcoming our “egoism” and of including the point of view of others within the concept of cosmopolitan citizenship.

Something very similar is at work in Gandhi’s political thought. In an editorial of April 1946 Gandhi wrote this: “Life will not be a pyramid with the apex sustained by the bottom. But it will be an oceanic circle whose centre will be the individual always ready to perish for the village, the latter ready to perish for the circle of villages, till at last the whole becomes one life comprised of individuals, never aggressive in their arrogance, but ever humble, sharing the majesty of the oceanic circle of which they are integral units. Therefore, the outermost circle will not wield power to crush the inner circle, but will give strength to all within and will derive its own strength from it.”<sup>15</sup> For Gandhi the problem was not to overcome egoism in the Western sense, but to address the tension between citizenship as a local identity and a larger sense of unity organized around the idea of humanity. The oceanic circle was a device for navigating this tension between national citizenship and cosmopolitan citizenship. Gandhi inspires some very interesting thoughts about how we should create a community of dialogue by expanding human solidarity and moral togetherness.

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<sup>10</sup> Kant, Immanuel, *Idea for a Universal History from a Cosmopolitan Point of View* (1784). Translation by Lewis White Beck. in “On History,” The Bobbs-Merrill Co., 1963, thesis five

<sup>11</sup> Kant, Immanuel, Kant: *political writings* (ed. Hans Reiss), Cambridge University Press, Cambridge, 1991, p. 173

<sup>12</sup> Kant, E. “Idea for a Universal History with a Cosmopolitan Purpose,” in *Political Writings*, Anthony Pagden and Jeremy Lawrance, eds. (Cambridge: Cambridge University Press, 1991), P.51.

<sup>13</sup> Kant, Immanuel, Kant: *political writings*, op.cit., p.58

<sup>14</sup> Kant, I. Berlin *Akademie Ausgabe* Berlin: W. DeGruyter, 1902- vol. 8, p.20

<sup>15</sup> *The Essential Writings of Mahatma Gandhi*. Ed. Raghavan Iyer (Oxford: Oxford University Press, 1990), p.348

### **Gandhi and Nonviolent Cosmopolitanism:**

It is generally recognized that Gandhi's conception of nonviolence as a moral and political ideal places him in the cosmopolitan tradition. From Gandhi's perspective, nonviolence is an ontological truth that follows from the unity and interdependence of humanity and life. While violence damages and undermines all forms of life, nonviolence uplifts all. Gandhi writes: "I do not believe . . . that an individual may gain spiritually and those who surround him suffer. I believe in *advaita* (non-duality), I believe in the essential unity of man and, for that matter, of all that lives. Therefore, I believe that if one man gains spiritually, the whole world gains with him and, if one man falls, the whole world falls to that extent."<sup>16</sup> Gandhi develops the idea of nonviolence as a perspective of universal reciprocity which rests upon an awareness of a fundamental interconnection between one's self and other beings. As such, Gandhi's nonviolence is experimental and pluralistic, but it also approaches Truth as self-realization and self-awareness. Nonviolence, therefore, is derived from the pluralistic nature of Truth. Since we do not possess absolute truth, then dialogue with the other follows. As Gandhi suggests, "The golden rule of conduct . . . is mutual toleration, seeing that we will never all think alike and we shall see Truth in fragment and from different angles of vision."<sup>17</sup> Gandhi does not use the word 'cosmopolitan' to designate any particular view about his concepts of Truth and nonviolence. But this does not mean that he did not hold such a view. He entailed an awareness of the essential unity of humanity, and that awareness required a critical self-examination and a move from egoic centrality toward a shared humanity. As Gandhi himself developed it, nonviolence was a transformative ontological and political project, geared towards an "ashramic" view of the world. Far from being a mere retreat from the world, an ashram was a cosmopolitan community where spirituality and politics were fused. Gandhi's view of the relationship of spiritual life and public activity proved central to his teachings about the unity of humanity. The very idea of a cosmopolitan ideal was inscribed in Gandhi's concept of a harmonious co-existence of diverse beliefs. Gandhi's problem was to deal with politics in its inability to deal with the presence of that which was *other*. Therefore, what Gandhi meant by the idea of spiritualizing politics was to show that the true subject of the political is the citizen and not the state. In other words, in Gandhi's mind the citizen always stands higher than the state. This is why the question of "duty" is of much importance to Gandhi. Duty is the instant of moral decision where the political subject frees itself from any normative ties to the sovereign. As such, for Gandhi the true subject of political sovereignty is not power but duty. Gandhi famously writes: "It is a fundamental principle of satyagraha that the tyrant, whom the satyagrahi seeks to resist, has power over his body and material possessions, but he can have no power over the soul. The soul can remain unconquered and unconquerable even when the body is imprisoned."<sup>18</sup> Moving beyond fear allows the politics of Gandhi to move beyond the sovereign law that creates authority. For Gandhi, it is not the subject that is the consequence of sovereignty, but it is the sovereignty which is subordinated to the political action of the subject. Gandhi describes the

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<sup>16</sup> Cited in Naess, A. , Gandhi and group conflict. *An exploration of satyagraha. Theoretical background.* Oslo: Universitetsforlaget, 1974, p.43

<sup>17</sup> Ibid, p.28

<sup>18</sup> Cited in Bharathi, K.S. 1990. Satyagraha of Mahatma Gandhi, New Delhi : Indus, 1990, p.15

condition of possibility for legality and legitimacy as the political act of the citizens and not the rule of the rule itself, namely the state. The problem for him is not just who rules, but the whole structure of the sovereign rule. As a result, the Gandhian moment of politics is an effort to de-theologize and de-secularize the secularized theological concept of modern politics as it is presented by the omnipotent sovereign of Thomas Hobbes. The ethicalization of politics takes Gandhi to a critique of Hobbesian political authority and to disobey the state and its laws beyond the principle of fear. Gandhi's political practice is based on the taming of this fear. In *Hind Swaraj*, he writes, "Passive resistance cannot proceed a step without fearlessness. Those alone can follow the path of passive resistance those who are free from fear, whether as to their possession, false honors, their relatives, the government, bodily injury, death."<sup>19</sup> In order to import some kind of meaning to the concept of nonviolence as a moment of "shared sovereignty" and shear of the concept of modern politics of its theologically secularized treatment, Gandhi presents the idea of shared sovereignty as a regulatory principle and, at the same time, a guarantee that there is a limit to the abusive use of political power. It is also a principle that has a meaning only with reference to the idea of responsibility. The major shift in focus that appears in the Gandhian debate is from the everlasting idea of deriving political decision from the primacy of the political to an idea of the primacy of the ethical where the pursuit of moral life in politics takes Gandhi to an argument in favor of the responsibility of citizens. Gandhi to challenge the modern state is, therefore, not just the ground of its *legitimacy* but on its basic *rationale* itself. The Gandhian principle of non-violence is presented, therefore, as a challenge to the violence that is always necessarily implicated with the foundation of a sovereign order. Gandhi's critique of modern politics leads him to a concept of the political which finds its expression neither in the "secularization of politics" nor in the "politicization of religion", but in the question of "ethics of togetherness" which is framed in terms of a triangulation of ethics, politics and religion. This Gandhian moment of politics leads indubitably to the possibility of a synthesis between the two concepts of individual autonomy and nonviolent action. As such, the Gandhian moment of politics supports the civic capacity of citizens to redefine politics in relation with its explicit commonality, its feature of mutuality and a long-term guiding feature of a just society. Furthermore, the Gandhian moment of politics is about not only the value of an engaged public life, but also an ethos of a common world.

Gandhi succeeds in making new words of ancient wisdom in turning the Hindu and Jain concept of "ahimsa" into a civic temperament and a democratic allure. Gandhi's politics is a politics of means over ends. That is why politics has to be understood in conjunction with another idea that Gandhi uses often in his work – that of civilization as a moral progress of humanity. Gandhi develops the idea of "civilization" as a quest for the ultimate meaning of human existence and opposed to modern civilization as a newly acquired mastery over nature through modern science and over humans through modern politics. Gandhi considers civilization as a dialogical process where East and West meet and transform each other.

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<sup>19</sup> Gandhi, M.K., *Hind Swaraj and Other Writings*, Ed. Anthony J. Parel, Cambridge University Press, Cambridge, 1997, at 98.

### **The Gandhian Moment of Cosmopolitan Citizenship:**

Gandhi's intercultural approach to the ideas of civilization and citizenship is a form of cosmopolitanism that refrains from monolithic moralizing and gestures instead towards a comfort with difference, alterity and otherness. Gandhi was very conscious of discussing the idea of equality of cultures without being accused of cultural relativism. He was not a genuine relativist, but he understood that the world was composed of different and interrelated cultures, each with something profound to give, and he tried to form a bridge among them based on common moral principles. Gandhi believed in the toleration of other cultures because he believed that they are crucial aids to understanding and evaluating one's own. Gandhi always saw other cultures as equal conversational partners and his plea of equality of cultures was based on the paradigm of inter-cultural spirit which was rooted in a creative interplay of concepts and values. His greatest ideas, like *satyagraha*, were neither purely Eastern nor purely Western, but came from a process of living in between cultures. His ability to find a paradigmatic role as a path maker and a change facilitator in India was indicative of the cultural journey he had traveled. Gandhi was at the same time the "other Indian" and the "other Westerner." He was an outsider in both cultural horizons. As a matter of fact, he brought to his intercultural interactions his own sensibilities about where the cultural boundaries were and how "Indian" or "Western" cultural patterns ought to guide his behaviors. "I hate distinction between foreign and indigenous," wrote Gandhi.<sup>20</sup> His achievement lay in embracing an "inclusivist" vision and a philosophy devoid of a polarization of "us" and "them." Certainly Gandhi was not without his sense of the "Other," but he had too much respect for persons and cultures to render them into the dangerous "Other." Central to Gandhi, after all, was the notion that the truth, power and moral force of a movement are inseparable from the truth, power and moral force of its actors.

As it turns out, the Gandhian moment of cosmopolitan citizenship has been a constant experimentation with modes of cross-frontier cultural constellations. The capacity to engage constructively with conflicting values is an essential component of practical wisdom and empathetic pluralism in Gandhian nonviolence. Empathy, contrary to sympathy or compassion, demands that an individual vicariously share in the thoughts and feelings of the other and temporarily become the other. Therefore, the first step of Gandhian empathy is to assume that not only are there differences between people, cultures, and political or social conditions, but also that people may have different value systems which need to be understood and respected critically. The dialogical nature of Gandhian tolerance is expressed here in the idea of a "self-respecting" community which strives to remove its own imperfections instead of judging others. Therefore, for Gandhi the acceptance of one's own imperfections was a call not only to cultivate humility, but also to foster pluralism. Such a view is essential if we are to avoid the danger of cultural conformity and move towards the recognition of shared values and the practice of cosmopolitan citizenship.

Needless to say, in an age of increasing globalization, we need to reevaluate the two concepts of "citizenship" and "cosmopolitanism." In other words, the limited scope of citizenship with its

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<sup>20</sup> Gandhi, M.K., *Young India*, 10-9-1931, p. 255

preoccupation with Western philosophy preclude any further exploration of the possibilities in which to capture the wider range of cosmopolitan citizenship beyond the Western paradigm of cosmopolitanism à la Kant. It would be wrong to suggest that “cosmopolitanism” is only thinkable in the context of European civilization or European thought. To put it another way, it is an error to hope that we can ever achieve a truly cosmopolitan vision of citizenship without an intercultural approach to the idea of civilization. Intriguingly, we can witness with cosmopolitan citizenship an epistemological rupture with the unitary logic of modern sovereignty as a realm of national rights. Actually, the cosmopolitan language of “nonviolent citizenship” as a relationship between intercultural imperative and global responsibility, denotes an ontological effort to capture the idea of political agency beyond a national state. As such, thinking practices of nonviolent citizenship goes hand in hand with reflecting critically on the moral legitimacy crisis of the modern liberal-constitutional state as a clear failure of the connection of the ethical and the political. This is to suggest that a political community should privilege a sense of reciprocity and mutuality as a nursery of civic virtues instead of approving the spirit of national sovereignty and state authority. Approaching cosmopolitanism from the perspective of interculturality can potentially supply cosmopolitanism with a sense of how citizenship is made from the ground up. Rather than thinking of citizenship as a status within an institutional, legal framework backed by world-historical processes, we can acknowledge citizenship, or belonging, as a global field of negotiated practices. Interestingly enough, that citizenship rules of all peoples have hitherto in fact been a symbiosis of historical contingencies and cultural struggles attests to the notion that one can achieve global belonging, if not the status of cosmopolitan citizenship by exploring, cultivating, and articulating the conditions of intercultural mutuality and reciprocity. More clearly, cosmopolitan citizenship is a politico-legal, dynamic balance between the intercultural imperative and the principle of the recognition of difference. Simply put cross-border support and tolerance suggests a level of “epistemic humility” as the ground for political and ethical cosmopolitan projects. Put differently, humility translates to nonviolent interculturality as a global project, which cannot be thought of in terms of cultural relativism but as a new mode of projecting and imagining, ethically and politically, cosmopolitan perspective. Certainly, this is an argument in favor of a farsighted cosmopolitanism which seriously advocates a solidarist citizenship beyond national selfishness and global exclusion. Engaging in solidarist relationships in which there is a thicker principle for care, openness, and empathy is a constructive, form of cosmopolitan citizenship that embodies principles of democracy in endlessly different ways. One should not misunderstand the essence of nonviolent action as the sole pursuit of strengthening local citizenship. On the contrary, nonviolent movements have acknowledged global diversity by joining in solidarity beyond borders. As such, vocalizing the idea of nonviolence on the world stage has contributed in the past decades to the strengthening of cosmopolitan lines of active citizenship and the acknowledgment of global diversity. This process has essentially been tied to a constant civic effort in countries where democracy remains a project in the making.

### **Gandhi and Cosmopolitan Education of Peace**

According to Gandhi education is not only instrumental in avoiding terror and violence; it is also a way to self-realization and self-improvement. As such, Gandhi places great emphasis on the cultural and moral aspects of education. According to Gandhi, peace education must involve mutual interaction

between means and ends, since nonviolence is the best means to analyze peace education and peace education is also a means for becoming more compassionate and nonviolent. Therefore, for Gandhi peace and education must be brought into a mutually interacting and empowering relation. Lack of empathy and mutual understanding in education, in contrast, creates ontological separateness and resentment which can end up with linguistic, psychological, cultural and political forms of violence. That is why, Gandhi points to two factors concerning the relation between education, peace and culture. The first factor relates to the cultural aspect of education. Regarding the role of culture in education, Gandhi affirms: "I attach for more importance to the cultural aspect of education than to the literary. Culture is the foundation, the primary thing."<sup>21</sup> When Gandhi talks about the importance of the "culture of the heart" in education, he refers directly to the idea of building of character which prepares the moral life of an individual or a nation. As for the second factor, Gandhi emphasizes on the establishment of universities financed solely out of private endowments. "In my opinion", he says, "it is not for a democratic State to find money for founding universities. If the people want them, they will supply the funds. Universities so founded will adorn the country which they represent." This is one of the reasons why Gandhi rejects forcefully the utilitarian model of education, which maintains that economic or political ends justify teaching students the dominant economic or political models.

Key to this Gandhi's criticism of utilitarian educational model is his awareness of the oneness of humanity and his belief in the importance in the quest for autonomy and independence. This view of what he called Basic Education became one of the essential components of his Constructive Program. He, therefore, favored the correlation between basic education and the idea of self-reliance, which had the spinning-wheel as its symbol par excellence. It is worthy of note that for Gandhi, there is no distinction between intellectual and vocational training, because he sees nonviolent education as a form of self-respect, self-belief and self-realization. In such a case, creativity goes hand- in- hand with a philosophy of becoming. This is exactly what John Dewey refers to as "moving ideas" in his *Moral Principles of Education*. For Dewey, "The business of the educator-whether parent or teacher- is to see to it that the greatest number of ideas acquired by children and youth are acquired in such a vital way that they become moving ideas."<sup>22</sup> Moving ideas compel individuals to become empathic, responsive and self-reliant. So both for Gandhi and Dewey, the ultimate aim of education is orderly unfolding and relating of experiences. This is also the approach of an educationist like Paulo Freire when he says in an interview that: "Reading the world is important rather than reading the word."<sup>23</sup> According to Freire there is no such thing as neutral education. Education either dominates or emancipates. Education, therefore, is the possibility and capacity to deal critically with the world in order to transform it. If the process of transformation of the world relies upon the praxis of collaboration and communication, therefore, education of peace and nonviolence is the best way to engage in dialogue and seek to negotiate toward the truth.

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<sup>21</sup> Quoted in Chaube, Sarayu Prasad, *Recent Philosophies of Education in India*, Concept Publishing Company, 2005, p.152

<sup>22</sup> Garrison, James W., *The New Scholarship on Dewey*, Issues 3-4; Issues 1994-1995, Springer Science & Business Media, 1885, p.337

<sup>23</sup> Paulo Freire P., Macedo D., *Literacy: reading the word and the world*, Routledge Taylor and Francis Group, 1987, pp 20-24



## **The Intercultural Gandhi**

Gandhi's politics is a politics of means over ends. That is why politics has to be understood in conjunction with another idea that Gandhi uses often in his work – that of civilization as a moral progress of humanity. Gandhi develops the idea of “civilization” as a quest for the ultimate meaning of human existence and opposed to modern civilization as a newly acquired mastery over nature through modern science and over humans through modern politics. Gandhi considers civilization as a dialogical process where East and West meet and transform each other in harmony and in peace. It has often been remarked, by the Gandhian scholars, that nonviolence is the central category of Gandhi's philosophy to which the other problems are ultimately related. However, for Gandhi, this nonviolence is the core of human beings' courageous and meditative thinking toward peace, as the ultimate state in the evolution of civilization toward a worldwide dialogical harmony.

As such, Gandhi's intercultural approach to the ideas of civilization and citizenship is a form of cosmopolitanism that refrains from monolithic moralizing and gestures instead towards a comfort with difference, alterity and otherness. Gandhi was very conscious of discussing the idea of equality of cultures without being accused of cultural relativism. He was not a genuine relativist, but he understood that the world was composed of different and interrelated cultures, each with something profound to give, and he tried to form a bridge among them based on common moral principles. Gandhi believed in the toleration of other cultures because he believed that they are crucial aids to understanding and evaluating one's own. Gandhi always saw other cultures as equal conversational partners and his plea of equality of cultures was based on the paradigm of inter-cultural spirit which was rooted in a creative interplay of concepts and values. His greatest ideas, like *satyagraha*, were neither purely Eastern nor purely Western, but came from a process of living in between cultures. His ability to find a paradigmatic role as a path maker and a change facilitator in India was indicative of the cultural journey he had traveled. Gandhi was at the same time the “other Indian” and the “other Westerner.” He was an outsider in both cultural horizons. As a matter of fact, he brought to his intercultural interactions his own sensibilities about where the cultural boundaries were and how “Indian” or “Western” cultural patterns ought to guide his behaviors. “I hate distinction between foreign and indigenous,” wrote Gandhi.<sup>24</sup> His achievement lay in embracing an “inclusivist” vision and a philosophy devoid of a polarization of “us” and “them.” Certainly Gandhi was not without his sense of the “Other,” but he had too much respect for persons and cultures to render them into the dangerous “Other.” Central to Gandhi, after all, was the notion that the truth, power and moral force of a movement are inseparable from the truth, power and moral force of its actors.

As it turns out, the Gandhian moment of cosmopolitan citizenship has been a constant experimentation with modes of cross-frontier cultural constellations. The capacity to engage constructively with conflicting values is an essential component of practical wisdom and empathic peacemaking in Gandhian nonviolence. Empathy, contrary to sympathy or compassion, demands that an individual vicariously share in the thoughts and feelings of the other and temporarily become the other.

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<sup>24</sup> Gandhi, M.K., *Young India*, 10-9-1931, p. 255

Therefore, the first step of Gandhian perspective of empathic peacemaking is to assume that not only are there differences between people, cultures, and political or social conditions, but also that people may have different value systems which need to be understood and respected critically. The dialogical nature of the Gandhian philosophy of peace is expressed here in the idea of a "self-respecting" community which strives to remove its own imperfections instead of judging others. Therefore, for Gandhi the acceptance of one's own imperfections was a call not only to cultivate humility, but also to foster pluralism. Such a view is essential if we are to avoid the danger of cultural conformity and move towards the recognition of shared values and the practice of cosmopolitan citizenship.

Needless to say, in an age of increasing globalization, we need to reevaluate the two concepts of "citizenship" and "peacemaking." In other words, the limited scope of citizenship with its preoccupation with Western philosophy preclude any further exploration of the possibilities in which to capture the wider range of nonviolent citizenship beyond the Western paradigm of cosmopolitanism a la Kant. It would be wrong to suggest that "nonviolent citizenship" and "cosmopolitan peace" are only thinkable in the context of Western civilization or Western thought. To put it another way, it is an error to hope that we can ever achieve a truly cosmopolitan vision of peace without an intercultural approach to the idea of civilization. Intriguingly, we can witness with cosmopolitan citizenship and nonviolent peace an epistemological rupture with the unitary logic of modern sovereignty as a realm of national rights. Actually, the cosmopolitan language of "nonviolent citizenship" as a relationship between intercultural imperative and global responsibility, denotes an ontological effort to capture the idea of political agency and peace thinking beyond a national state. As such, thinking practices of nonviolent citizenship goes hand in hand with reflecting critically on the legitimacy crisis of the modern liberal-constitutional state as a clear failure of the connection of the ethical and the political. This is to suggest that a political community should privilege a sense of reciprocity and mutuality as a nursery of civic and global peace instead of approving the spirit of national sovereignty and state authority. Approaching the question of global peace from the perspective of interculturality can potentially supply nonviolent citizenship with a sense of how citizenship is made from the ground up. Rather than thinking of peace as a status within an institutional, legal framework backed by world-historical processes, we can acknowledge peace as a result of nonviolent citizenship, as a global field of peace talks and negotiated practices. More clearly, nonviolent perspective of peace is a dynamic balance between the intercultural imperative and the principle of the recognition of difference. Simply put, the nonviolent perspective of peace suggests a level of "epistemic humility" as the ground for political and ethical cosmopolitan projects. Put differently, humility translates to nonviolent interculturality as a global project, which cannot be thought of in terms of cultural relativism but as a new mode of projecting and imagining, ethically and politically, cosmopolitan perspective. Certainly, this is an argument in favor of a farsighted peacemaking in our world which seriously advocates a solidarist citizenship beyond national selfishness and global exclusion.

## Conclusion

Undoubtedly, it is the moral vocation of humanity, as a regulative idea, that helps us to think of education as the measure of all our historical efforts. This is where and how the concept of education is substantial and can be described as a principle of maturity for humanity. This takes us back to Kant. It could be said that he would certainly be in agreement up to a certain point with those educationalists who believe that every theory of education is a theory of freedom. As such, primary for Kant is the capacity of human judging which is accompanied with a freedom from prejudice, domination and heteronomy. From Kant's perspective, the basic task of education is not the inculcation of knowledge, but rather the task of preparing the mind to exercise freely. The culture or cultivation (Kultur) of reason is, therefore, accompanied with a way of conducting ourselves in thought (Denkungsart) which should bring about a perpetual peace and a moral improvement in the future condition of humanity. Kant, therefore, guides us to his maxim of thinking for oneself and his famous distinction between maturity and immaturity. As he says in his famous essay on *Was ist Aufklärung?* (What is Enlightenment?) any failure to think for oneself and to accept external authority ends up to immaturity and the absence of moral and spiritual excellence. Therefore, Kant's conception of maturity goes together with the idea of cultivation of human reason required to fit humanity for its purposes in history. To this end, Kant is clear that by education, we should understand the "realization of the ultimate destiny of the human race." Education is, then, supposed to solve the riddle of history by forming moral agents in a given generation and by creating a moral social order. This coincides further with the explicit Socratic nature of Kant's philosophy of education and its teleological course towards bringing humanity to an awareness of its own moral aptitudes.

Now, if this is the case and as Kant says the substantial feature of humanity is its moral orientation in history, it is hardly surprising that for the utilitarian enterprise of education in 21st century the Kantian view should pass unrecognized. As a matter of fact, in today's educational enterprise at schools and universities, the moral vocation of humanity is either absent or resides among the last items of interest. In its highest form, education of this sort does not consist in the cultivation of virtue among students and professors, but perhaps the most glaring sign of the decline of moral education in our world is our devaluation of values. Today, perhaps we are much more cautious and much less conscious than Socrates to say: "I know nothing, except that I know nothing." Maybe, because the appreciation of ignorance is a better part of wisdom. And wisdom, after all, is not loud like our world; it is quiet, it is restrained, it is humble. Therefore, it takes wisdom to resist the tyranny of mediocrity and to free ourselves from our "self-incurred tutelage." By establishing a new task for education, we can free ourselves from the dogmatic, absolutist and calculative mode of thinking that is dominating our world. But this de-dogmatized education cannot succeed unless we take Kant's advice seriously: "Sapere Aude! Have the courage to exercise your understanding." More than two hundred years later, the battle cry of Kant is still ours. Without it any quest for peace and nonviolence in our world would be impossible.

As pointed out earlier, building peace and transcending regional and global conflicts and wars cannot be left entirely to the action and volition of political leaders. What is necessary herewith is not political governance, but moral leadership. Moreover, moral leadership cannot prevail by instrumental

reason, i.e. to work with the elements as means to an end. What we need here is a massive pedagogical enterprise as a mode of "cultivation" of humanity. The pathway delineated here is a close relation between the two concepts of "culture" and "cultivation" (*Kultur* in German). As Kant says, cultivation is "producing the fitness of a rational being for any purposes whatever of its choosing freedom."<sup>25</sup> The centrality of the cultivation of reason has for goal the education of humanity. Education of humanity for peace is, therefore, a teleological process toward the realization of what Kant and Fichte call the "vocation of humanity" (*Bestimmung des Menschen*). The task of education is, thus, to furnish a second eye to the politically shaped peace. The goal here is not only to have peace, but worthiness to peace. So construed, peace is neither permanent nor complete; actually the basis for its possibility is always present in the vocation of humanity and conditions for its flourishing in human societies will always reappear. As such, there is no straight-line progression from war to peace. Days of war and conflict, reversals, are inherent to the path of peace. In other words, the peace education of humanity starts and ends with practical wisdom and critical reasoning. Without these two projects, the politics of peace would have the tendency to be flawed and ineffective. The critical self-examination of humanity, therefore, is not the possession of peace, but worthiness to create and preserve it. To follow the paths of Kant, we can also affirm that education for peace requires bringing people together in a non-coercive framework of interaction. Peacebuilding is, therefore, an effort to create better understanding of the otherness of the other.

The effort to peacebuilding is, therefore, accompanied with a freedom from prejudice, exclusion and domination. Therefore, an essential part of a definition and practice of a culture of peace is through education of nonviolence that develops the quest for mutual understanding. This raises questions concerning the value of civic upbringing, as an individual process and as a process that a community go through. Here the education is not about learning facts, but to cultivate one's judgment in order to be able to distinguish between the mediocre and the spiritually noble. In this context, the citizen is not an expert and civic education of the political, which is crucial to the life of the citizen, is not a *techne*. There is no doubt that within the concept of the political the fellow citizen is more highly regarded than the expert politician and bureaucrat. A citizen, unlike a believer, does not believe that his/her truths are eternal and sent from heaven. Consequently, the practical wisdom (*phronesis*) of the political is not linked to a theoretical knowledge but to a dialogical and soul-awakening experience of individuals. As Kant says in his 1778 letter to Christian Wolke: "The only thing necessary is not theoretical learning, but the *Bildung* of human beings, both in regard to their talents and their character."<sup>26</sup> Here, education is not in the conventional sense of the term. If this is how things are in the context of the political, then education is not about repeating and imitating the already inherited values that are collectively accepted, but also to be able to create new values and norms in an autonomous way. It is certainly not ideological, but it is philosophical since it is exploration of constantly new questionings and a re-activation of the process of thinking. Such a process of thinking is an effective strategy for peacebuilding in today's

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<sup>25</sup> Kant, I., *Critique of Judgment*, vol.5 of Kants Gesammelte Schriften, ed. Preussischen Akademie der Wissenschaften, Walter de Gruyter, Berlin, 1900-, p.431

<sup>26</sup> Quoted in Munzel, Felicitas G., "Kant on Moral Education, or "Enlightenment" and the Liberal Arts", *Review of Metaphysics* 57 (1), September 2003, p. 43

world where pedagogy for peace is not something that is currently articulated and practised by the mainstream politicians, practitioners and researchers of international relations.

Peace remains only in the most difficult task of all, but it cannot be attained without a cosmopolitan citizenship, where people can also think beyond their national, religious and cultural identities. That is why, Gandhi insisted on nation building and character building going hand in hand. He knew well, unlike what many academics think today, that the aim of education is not the marriage of classroom and diplomas, but that of peace thinking and peace making. Gandhi perhaps was the only Indian political leader who understood the significance of learning by living with others and listening to others. Gandhi developed his political philosophy on the idea of empathy for the otherness of the other. Not all would agree with Gandhi in this respect, but the need for a cosmopolitan and intercultural system of education in industrially developed societies has been aptly proved by history and recent failures in world politics. Gandhi was pre-eminently tried to relate peace, education and cosmopolitan citizenship. He was also best known for his philosophy of nonviolent resistance. However, though Gandhian nonviolence was the main weapon that evicted the British Empire from India and inspired Martin Luther King, Jr. to end Jim Crow in the U.S. South and win civil rights for the Blacks in America, skeptics still retort today that these cases are exceptions to the rule. But more precisely, in an age which is characterized by the loss of moral leadership and the replacement of the idea of empathy by that of utility in our world, which place can peace education and cosmopolitan citizenship have among nations and individuals? In this age of mediocrity, cynicism and conformism it looks like we have ceased to talk about a hopeful, interconnected and dialogical mode of living together, but, on the contrary, have veered towards dehumanization of the Other and espousing the two ideals of "might is right" and "the survival of the fittest". Thinking peace is an ethics that necessarily entails a mutual recognition – rather than the eradication of difference and the otherness of the Other. This kind of ethics cannot be delivered by command from above or by invocation of authoritarian, patriarchal and patronizing principles; it emerges as a condition of dialogical co-existence among those who differ. In Gandhi's theory of peace, human values take great prominence. Nonviolence is a way of life rather than only a tactic and the search for truth makes the whole difference between submission to injustice and active struggle against it. Following Gandhi, we can say that there is no perspective for peace and nonviolence outside ethical questioning of our world. In the light of this moral and intellectual urgency, it is plausible to conclude that in the age of Trumpization of politics the only way to respond to the blows of fate is not to lose the appetite for nonviolent action and peace research and not cease to ask embarrassing questions and practice empathy at the intercultural level. As a matter of fact, a nonviolent peace thinker is someone who meddles with what does not concern him/her. That is why, to think and practice nonviolence and peace in an age of Trump is to have dirty hands, because thinking and acting must position in relation to politics. For thinking and questioning about war and peace are neither public agreements nor business contracts. They are constitutive for all public action and political organization of the society. If humankind is looking toward peace and nonviolence, it necessarily requires convictions and commitments, but it also requires Socratic rebels, of the mind and of action, who have the courage to swim against the tide and think against the general drift. Although we can never be certain about the positive results of our actions, we cannot work for a global peace and cosmopolitan citizenship if we ignore our intercultural and educational responsibilities in these strange years of the second decade of the 21<sup>st</sup> century.

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# Coaching to Resolve and to Prevent Conflicts

By Dr. K. S. Sarma,  
*International Trainer on Mediation*

Conflict Prevention and Resolution is a multidisciplinary profession. It is a science, because it works on certain basic axioms. It is an art, because like any other art, its scope is unlimited. It calls for imagination, flexibility and spontaneity.

A mediator enables disputants to negotiate between them effectively and brings about not only settlement but also a value addition to both. A coach also achieves it, but dealing with only one of the parties, who is the coachee. For example, a coach may guide an executive to deal effectively with her difficult colleague.

The world's leading executive coach Marshall Goldsmith defines his purpose as helping his clients to 'achieve lasting positive change in their behaviour'.

As a trainer in human relation skills and as a mentor, I had helped my protégés to resolve their disputes with their colleagues/customers, though I had not even met the other 'disputant'.

The participant of a workshop that I conducted for a large government sector enterprise in India told me that there was a problem with his son, who was doing his undergraduate programme in engineering and requested me to talk to his son. I told him that instead of meeting his son, I would like to discuss with him. I tried to understand how he was dealing with his son right from the latter's childhood. After a few 'fact accumulating' discussions, I felt that the problem was not with his son, but with himself! When I told him that there was no need for me to meet his son and that instead, I could guide him to resolve it.

Though he was a very senior manager, he was open minded and as a result, I could bring about positive changes in his behaviour towards his son. I had a few sittings with him, when he used to report to me what he did and the outcomes. Within a few months, his relationship with his son became good, which resulted in the son doing well in his studies as well.

Though I had resolved the conflict, what I did is not mediation, but coaching or mentoring. I brought about a positive shift in the behaviour of the father. I did the same thing for another senior manager of the same organization, where the 'dispute' was between the father and the daughter. The father realized his mistake and changed his approach towards his daughter. As a result he won the love and respect of his daughter.

In another large MNC, a senior manager complained to me about his junior colleagues and made them to attend a training programme along with him, as he believed that I might bring about a positive shift in the attitude of his junior colleagues. After a month he reported to me that his junior colleagues' attitude and behaviour had improved. The reason he gave was interesting. He said that it had improved mainly because he changed his attitude/behaviour towards them, which he said was noticed by his wife and children as well!

What I did was coaching. However, I had enabled my clients to resolve disputes with their son in one case, daughter in another case and with the junior colleagues in the third case.

All the three participants learned how to conduct themselves with son/daughter/junior colleagues. The process brought about transformation in their outlook. However, these may not technically qualify to be

mediation, because I had dealt with only one party. If what I did is not mediation, then coaching or mentoring deserves to be called another ADR!

When I was working with an engineering company, the managing partner of a dealer of my company became my protégé! He used to complain to me about his younger brother, who too was a partner of the firm. I tried to make the elder brother to realize the flaw in his behaviour towards the younger brother. Later, the younger brother too approached me for guidance, which I gave. Their relationship became normal thereafter. I did not do mediation here, though I dealt with the younger brother also subsequently.

What I did in this case also was mentoring and coaching. I tried to drive home the point that how the other person behaves with us is not important and that what is important is how we respond to it. What happens to us is not that important. How we respond to it will determine our fate.

I tried to make my participants to understand that every situation is a resource, irrespective of whether it looks good or bad. If we have the right attitude, we will be able to engineer the situations to the benefit of all concerned.

If there is a possibility of resolving a dispute by dealing with only one party by mentoring/coaching her, it is a better option than simultaneously dealing with both the 'disputants' for the following reasons.

**I.** While dealing with two parties, establishing impartiality is sometimes a challenge. Familiarity with a disputant becomes a disqualification. As a result, a mediator is not able to resolve the disputes of known persons, unless of course the impartiality is established.

**II.** Coaching is a more transformational process than Mediation, because the protégé takes the onus entirely upon herself to negotiate and convince the other party and as a result, brings about a metanoia in the other person. As a result, the protégé will be able to prevent and resolve disputes herself without the help of a mediator in the future.

**III.** In the case of Coaching, the coach can focus entirely on his coachee on developing her negotiation and human relation skills. Whereas in the case of Mediation, the focus of attention is on resolving the dispute in hand.

**IV.** In the case of coaching/mentoring, the coach considers the dispute as a tool and as an opportunity to mentor his protégé. So, the focus is on the client's development and not on just resolving a specific dispute.

Coaching only one of the parties to resolve the dispute may not be practically possible in all the cases. It is possible only if the coach finds her trainable. Even Marshall Goldsmith decided to get a coaching contract cancelled after having spent half-a-day with the coachee, who was the CEO of a company. Besides, when the dispute is highly commercial or on sharing wealth, mediation or arbitration only may be feasible.

Mediation and Coaching have their own spaces in preventing and resolving conflicts. Both are nonviolent processes and both lead to peace!

**Note:**

There is difference between coaching and mentoring and between the terms 'coachee' and 'protégé'. I have used both the terms, sometimes interchangeably. I did so because out of the four clients cited, three of them were participants of my workshop, who approached me for one-in-mentoring. In the fourth case, the client was my dealer, to whom I became a coach. But he conducted himself like my protégé. Perhaps, I didn't know sometimes, whether I was training, coaching or mentoring, though I was sure I was not mediating!

William Shakespeare comes to my rescue! He said, "What is in a name? That which we call a rose by any other name would smell as sweet."



# Actions For Peace Through Non-Violence

By Mr.V.Inbavijayan and

Ms. Kirthi Jayakumar

## Introduction

*"To tell one's story is a human right"*

- Masha Hamilton, The Afghan Women's Writing Project.

A large part of building peace and living in a world of peace comes from a state of empathy. As Mother Teresa said, *if we have no peace, it is because we have forgotten that we belong to each other*. This state of belonging to each other stems from the fact that we are not only individuals, but also a part of the whole that constitutes the universe. This state of belonging to each other stems from the shared notions of happiness and suffering and the crests and troughs that life offers. Suffering is simply a part of the human condition,<sup>1</sup> and comes from our own existence as separate bodies reacting to emotions and our rational mind. It is a very "human" tendency to be attached, to crave fulfilment from our experiences, to seek outcomes that we ideally want to see manifest. It is also as much a "human" tendency to fear the unknown, the impermanence of life especially when we are challenged with the potential or actual loss of those that we love. We cling to externalities that are always changing – while being rooted in our own story – and that in turn, results in a state of separation from one another and the Truth.<sup>2</sup> Ultimately, all that we each seek is the discovery of our true selves.<sup>3</sup>

As life begins, we each start from a place of being absolutely unconditional, what with being in a state of total love and acceptance of the world around us.<sup>4</sup> But, as we grow older, these feelings are learned to be constricted, particularly being a response mechanism to unpredictable experiences in life – which are, invariably, a mix of both, the good and the bad.<sup>5</sup> We don't understand the meaning of these experiences, and get caught up in the nitty-gritty dealings of our daily lives. In the process of being caught up in the everyday game of scripting and role-playing, we dramatise our own egos and wind up thinking that that is the story of who we think we are.<sup>6</sup> Using our story-cards as our business cards, we think of the accomplishments and recognitions we have achieved as our story and represents us truly – but that is when we most suffer, because it is not the truth.<sup>7</sup> When we suffer, and hide our suffering, we fail to understand that almost every other person suffers and hides his or her suffering as well. In that, we lose the power to empathise with the other.

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<sup>1</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 3

<sup>2</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 4

<sup>3</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 4

<sup>4</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 6

<sup>5</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 6

<sup>6</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 6

<sup>7</sup> Targ and Hurtak, 2006, The end of suffering, Chapter 1, page 6

We all experience suffering in our lives. In the face-off between the falsehood and the reality that unfolds – the reality that we keep hidden because of a variety of issues ranging from stigma and shame, to fear and worry about speaking out – continues to make us suffer. This contradiction becomes disruptive for our mind and body, and in extension, for the general well-being of the community at large. Once in a while, when a person breaks out of this pattern and speaks their story, we beatify them and deem them demi-Gods or near-celebrities, and call them brave and courageous for speaking out. In reality, all they are doing is the right thing. The rest of us, instead, continue to keep our true stories within us – either as a strategy to forget, or to cope, or to simply not want to face it, or even to avoid being sympathised with or stigmatised by.<sup>8</sup> We take to suppressing our emotional pain and feelings. Irrespective of the suppression, a release becomes inevitable – so this may take place through acting out, absurd behaviour, violence, addictions or even disease. Quieting the mind is not the solution – but rather, speaking out is what is.<sup>9</sup>

All that we need is a change in perception, a change that advocates the simple understanding that every person has a story, a story that makes them who they are and what they believe in come alive to them. We need to transcend the conditioned awareness that we have as a product of the beliefs we hold in every aspect of our life – because these beliefs are only artificial constructs, and are not reality.<sup>10</sup> To be able to arrive at that change in perception, we need to cultivate values of empathy and compassion, and a state of understanding and a capacity to accept and adapt. One of the easiest ways to do that is to speak up, speak out and speak against – through the vehicle of one's true story and narrative.

Through this paper, I would like to explore ways in which storytelling can develop from a personal plane of action, release and self-help, to a tool that can enhance and establish a state of peace by building on values of empathy and understanding. Through the instrument of shared stories, there is room for the creation of empathy, whole-hearted understanding and respect – and this sensation can be expanded beyond the realm of personal relationships, to bring warring nations together in a state of completely durable and sustainable peace. This paper will comprise four parts. The first part will explain what storytelling is and comprises, in an institutional and non-institutional set up. The second part will take a look at how storytelling can constructively assist the process of peacebuilding from the individual and upwards to the global community. The third part will attempt to draw from the experiences of two storytelling projects and my own personal story to examine the way we can derive and strategise. The final part will attempt to draw a conclusion and examine how storytelling can be a tool in the journey to decolonise peace.

### **Storytelling for peace: building the correlation**

Storytelling is effectively what it is named: telling a story. The difference, though, when it is brought to fore in peace work, is that it is not the narration of an imaginative tale – although some curriculums may

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<sup>8</sup> Targ and Hurtak, 2006, *The end of suffering*, Chapter 1, page 8

<sup>9</sup> Targ and Hurtak, 2006, *The end of suffering*, Chapter 1, page 8

<sup>10</sup> Targ and Hurtak, 2006, *The end of suffering*, Chapter 1, page 12

be broad enough to include it, but rather the rendition of one's own true story. Storytelling is presented as "an accessible, flexible means by which a community might examine values embedded in its traditional stories with an eye to abandoning strife – conducive values and transforming destructive storytelling into constructive."<sup>11</sup>

Fundamentally, storytelling as a peacebuilding tool is a perfect example of decolonising peace. Decolonizing peace arises "from a decolonization of the mind; from the cognitive and emotional understanding that individuals do not necessarily need expert outsiders and their resources to shape their daily lives, or more importantly, to bring them peace."<sup>12</sup> Storytelling is effectively a route to decolonising one's mind, since individuals arrive at a cognitive and emotional awareness of how potent a tool for change they are. All they need to do is to speak their own narratives: one does not need an expert outsider to help alter the course of their everyday lives; one does not need to find peace outside when the answer is truly within.

The functionality of storytelling as a concept emanates from the notion that conflicts stem from the bad stories that we hear about ourselves, others, the past and the future.<sup>13</sup> Almost all of our suffering is in our mind: guilt or depression over things that have occurred in the past, or anxiety over things that might have occurred in the past, or anxiety over things that might or might not happen in the future.<sup>14</sup> We can carry in our memories anger, guilt and especially resentment towards people who have mistreated or betrayed us even long after those nasty people have departed or died, or we can choose to empty this mental backpack instead of lugging around our treasured old garbage.<sup>15</sup>

We cannot change a narrative, of course. Our baggage is indeed our own to carry – but getting the load off one's chest by telling true stories can help pave the way. It helps in facing the truth to understand who we are, where we come from and what has been our past, we become capable of understanding our strengths and weaknesses, and build bridges with others by listening to them with empathy.<sup>16</sup>

It is a well-known psychological dynamic that the more we judge other people, the unhappier we are, ourselves.<sup>17</sup> In this regard, storytelling has the capacity to help one go beyond the realm of looking at others with their own opinions colouring their perspectives, by making them empathise with the storyteller. It helps increment community building, the transmission of values, increasing knowledge sharing and supporting collaborations across differences.<sup>18</sup> Mutual empathy and mutual empowerment

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<sup>11</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002) p. 44-45; Pat Ryan's *Storytelling in Ireland: A Reawakening* (Londonderry, The Verbal Arts Center, 1995).

<sup>12</sup> Victoria C. Fontan, *Decolonising Peace*, Dignity Press, p.49

<sup>13</sup> <http://www.tutufoundationusa.org/2012/10/using-stories-to-build-peace-an-experience-of-a-lifetime/>

<sup>14</sup> Targ and Hurtak, 2006, *The end of suffering*, Preface, page xviii

<sup>15</sup> Targ and Hurtak, 2006, *The end of suffering*, Preface, page xviii

<sup>16</sup> <http://www.tutufoundationusa.org/2012/10/using-stories-to-build-peace-an-experience-of-a-lifetime/>

<sup>17</sup> Targ and Hurtak, 2006, *The end of suffering*, Preface, page xviii

<sup>18</sup> <http://www.noabaum.com/peacebuilding/workshops.html>

are central to psychological growth.<sup>19</sup> Empathy becomes the fount of human connection and the retention of that connectivity, and transcends the realm of a one-way relationship.

There is an element of mutuality created in the process of storytelling – inherently because it is a shared activity where all those that are involved participate in it fully. It creates room to be emotionally accessible to retain that connectivity. When this empathy is created, it prevents violation of every sort, simply because if a person is empathic to another, they will not engage in the kind of conduct that might cause the other person a violation.<sup>20</sup>

When one hears stories from the other side, they become aware of the other side, they understand that everything that meets the eye is not necessarily true, and that there are stereotypes that need deconstruction. In the process of listening to stories as they are told, a room full of strangers can become a room full of familiar and congenial people with amity. Listeners gain by deconstructing stereotypes and social stigma. They can also release their own issues by experiencing and by empathising with the others who speak out. Listeners can understand that triggers don't hold any importance any longer. Listeners can come to understand and experience the other side – for instance, a perpetrator might do well to gain insights into what a victim or a survivor may feel.

The storyteller benefits through listeners and witnesses, through sharing their burdens of hurt and suffering. We create the conditioned suffering by our desire to defend our stories – our business cards so to speak – and our picture of who we think we are.<sup>21</sup> Storytellers can speak the truth for the first time, and be heard without being judged or questioned. If we don't let go of our issues, we become “attached and comfortable” with our suffering and our victimhood.<sup>22</sup> It doesn't matter if one is a perpetrator or the wronged, it only matters that they want to speak out. That comes from the notion of wanting to learn to question our reality.<sup>23</sup>

Each day, we have the choice to defend our ego and relive our story, or we can find a way to choose differently.<sup>24</sup> Through storytelling, the teller questions their tendency to hold onto a painful reality, while the listener begins to learn that they should be considerate, because everyone is coping with something or the other. The contrary – which is best explained as being “two-valued logic”, or the logic of the “self-versus-the-other-conflict”, gives rise to the lack of empathy and fear of the other, in whatever way it is that it manifests - as a Christian Crusade or an Islamic Jihad or plain old-fashioned Western Imperialism with its extermination of indigenous people.<sup>25</sup>

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<sup>19</sup> Baker Miller, Jean and Irene Pierce Stiver. 1997. ‘How do connections lead to growth’: ‘A paradigm shift’ in *The Healing Connection: how women form relationships in therapy and life*. Boston: Beacon Press, pp. 24-41

<sup>20</sup> Baker Miller, Jean and Irene Pierce Stiver. 1997. ‘How do connections lead to growth’: ‘A paradigm shift’ in *The Healing Connection: how women form relationships in therapy and life*. Boston: Beacon Press, pp. 24-41;

<sup>21</sup> Targ and Hurtak. 2006, *The end of suffering*. Preface, page xix

<sup>22</sup> Targ and Hurtak. 2006, *The end of suffering*. Preface, page xix

<sup>23</sup> Targ and Hurtak. 2006, *The end of suffering*. Preface, page xxii

<sup>24</sup> Targ and Hurtak. 2006, *The end of suffering*. Preface, page xxii

<sup>25</sup> Targ and Hurtak. 2006, *The end of suffering*. Preface, page 17

Collectively, for both the teller and the listener, the dialogue and cross-current of information shared through storytelling can create tremendous emotional healing. With physical and emotional stress, actual changes in the body can and do occur.<sup>26</sup> Ultimately, it is our life's purpose to first feel ourselves as part of a deep uniting experience, and then to help others have that same experience.<sup>27</sup>

Storytelling has tremendous potential to exacerbate altogether, or to at least transform social conflicts. In the process of telling their stories, storytellers have the potential to effect change and make an impact of a lasting kind on their cultures and the implications they have on those that perceive them from the outside.<sup>28</sup> Storytelling has all the trappings of a good peacebuilding mechanism: it doesn't need highly advanced technology, it doesn't need a precondition of literacy or affluence, and it simply doesn't need a medium – because it is transcendental. In effect, stories are a tool of “enculturation”, in that they engage both the teller and the recipient in a collaborative process of making a meaning and a message stand out of experiential living, while deconstructing myths, misconceptions, stereotypes and constructing values of empathy and tolerance.<sup>29</sup> Constructive storytelling is capable of assisting in the process of peacebuilding.<sup>30</sup> The storyteller enters a conflict situation and functions like an ambassador or a diplomat – as the listener is an onlooker, looking into the situation within from the outside.<sup>31</sup> Where storytelling and sustainable cultural diversity are concerned, the medium's accessibility and flexibility greatly recommend its use in long-term peace-building.<sup>32</sup>

### **Storytelling in action: Strategies from case studies**

The success of storytelling and dialogue through storytelling in bringing peace through cultivating empathy has begun to be felt in many communities. Although the complete restoration of peace between entire countries that have had a history of conflict with each other remains something that is yet to be seen, there is a lot of tangible appreciation and empathy building that culminates in peaceful coexistence.

In May 2014, over three hundred girls were kidnapped in Chibok, Nigeria, by the Boko Haram, a terrorist outfit based out of Nigeria. In response to the incident, there was tremendous furore – while the news continued to report and project that the Boko Haram were a terrorist outfit against Western education, social media and social networks exploded in a combination of photographs and “hashtags”, all of which perceived the Boko Haram as the epitome of villainy. The media sailed on this, and cashed in on the sensationalisation of the issue.

However, in the process, they continued to perpetrate the prevailing stereotype of antagonism against the Boko Haram, encouraging fear and spreading a sense of terror among civilians – and did nothing to

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<sup>26</sup> Candace Pert, (Research professor at Georgetown University Medical Centre), *Molecules of Emotion: The Science behind Mind-Body Medicine*, New York: Scribner 1999

<sup>27</sup> Targ and Hurtak, 2006, *The end of suffering*, Preface, page 24

<sup>28</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002), p. 44-45

<sup>29</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002), p. 44-48

<sup>30</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002), p. 50

<sup>31</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002), p. 50

<sup>32</sup> Jessica Senehi 'Constructive storytelling: A peace process' (2002), p. 50-51

contribute to the goal of releasing the girls, negotiating with the Boko Haram or focusing on efforts to do either. This soon became a spiralling mix of propaganda from the mainstream media that sensationalised the reports, and a pet project for celebrities and influencers on social media platforms. In the process, the hash-tag “#BringBackOurGirls” became bigger than the cause, as the media and the masses soon lost sight of the bigger issue and the undercurrents that need attention.

The media’s handling of the Boko Haram hinged heavily on propaganda and under-sensitised approaches. Consequently, there was much attention focussed on band-aid policies, and remedial measures that were only reactionary rather than addressing the big picture. Terrorism, violence and militancy should not be addressed in bits and pieces through response mechanisms, but rather, through informed policy decisions that approach the issue comprehensively. The fount of all efforts in peacebuilding stems from the understanding of the significance of empathy: for it is only when we understand where the other comes from, that we are in a place to act accordingly in response to their actions.<sup>33</sup>

In the context of the Boko Haram and the incident of the abduction of the girls in Chibok, Nigeria, the focus remained on the repetitive reporting of the media: that the outfit was a militant outfit poised against Western Education, that they comprised perpetrators of violence in pursuit of keeping patriarchy alive, and that they were of Islamic faith. There has been no media report that approached the outfit comprehensively – looking at them for what they are, what colours their thinking and their choices, what makes them do what they do and why they rely on violence as a means, and most importantly, what they hope to achieve as an end goal.

What the world hinges on is the understanding that the Boko Haram is a militant outfit based out of Northern Nigeria. They are called by a name crafted out of two words in Hausa, which translate to mean “Western Education is Sin”. They are driven by the understanding that the group belongs to Islamic faith, and that they work towards establishing a pure Islamic state ruled by Sharia Law, seeking to end “Western culture”.<sup>34</sup> But, the reality is that this is only the tip of the iceberg – the fact remains that there is a lot of information that should be brought to fore for tangible change to be effected, but isn’t.

Breaking away from the stereotypical presentation that the media has hinged on, Andrew Walker, in his thoroughly well-researched brief for the US Institute of Peace,<sup>35</sup> explains some of the actual features of the Boko Haram. Starting with their **ideology**, the report clarifies that the outfit is an Islamic sect labouring under the notion that northern Nigeria has been seized by a group of corrupt and false Muslims, and wants to wage war against them to create a pure Islamic state ruled by Sharia Law. While talking about their **activities**, the group has bombed public places, churches and burned down public schools in Northern Nigeria. The Boko Haram is not in the same fold as the al-Qaeda in the Islamic

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<sup>33</sup> Kirthi Jayakumar, “Can we leverage empathy to stop Boko Haram?” <http://www.insightonconflict.org/2014/06/can-we-leverage-empathy-to-stop-boko-haram/>

<sup>34</sup> What is Boko Haram? <http://www.usip.org/sites/default/files/resources/SR308.pdf>

<sup>35</sup> What is Boko Haram? <http://www.usip.org/sites/default/files/resources/SR308.pdf>

Maghreb, or the al-Shabab in Somalia. The Boko Haram is not bent on attacking Western Interests. Thirdly, talking about their **structure**, the report clarifies that the Boko Haram does not have a unified body. There is what Andrew Walker describes, as a “cell-like structure” that is “open for factions and splits”, culminating in the reality that there is no guarantee that a person speaking for the group is speaking for all the members of the group. This can pose problems in attempting a dialogue with them. Finally, discussing the **policy addressing them**, so far, in response to the Boko Haram the government has been brutal in its crackdown – a factor that has been counterproductive. Using extrajudicial executions has only proved to fuel the Boko Haram, and to sustain its antagonism.

In sharp contrast to these facts, what we as global citizens and recipients of information know is much too frugal, in parts, mere assumptions, and on occasion, jingoistic.

By extrapolating on conjecture and half-baked research, the media has stymied any proper approach towards the Boko Haram, and the efforts in handling their activities. Most policy and responses, instead, have been built on false notions about the outfit, being band-aid responses as opposed to actual, targeted strategies to effect a tangible difference. No attempts at negotiation for peace can function without sufficient knowledge backing it, and for that to happen, the Media must be a responsible vehicle in delivering the right facts, using the right language, and presenting them all in the right manner. Any attempt at a media intervention should best be solution oriented, and not idle or propaganda-driven. Clarity and no ambiguousness in understanding of a situation can then be pivoted into useful action by manifesting itself in informed and awareness-based solutions.

The media should effectively function as a channel, a medium that transmits information to those in need of the information to turn it into something actionable – it shouldn't attempt to be more than the messenger that it is designated to be.

### **Organisations and Conflict**

Conflict and war always offer their own series of risks, opportunities and threats. In response to them, individuals and organisations do one of three things - they enable, sustain or reduce the conflict through their conduct.<sup>36</sup> This is not a one-sided transaction, of course, because conflict in turn, reworks the entire social and economic landscape of the territory it unfolds in – that conflict can create a combat economy where extortion thrives as a means to finance war, or a shadow economy that prevails through a network of hoarding and black-marketing, or even a coping economy which involves downsizing and response mechanisms to deal with the conflict and its impact.<sup>37</sup> Considering the inter-relationship between conflicts and communities at large, the role of social responsibility and the need to ensure sustainability in pursuit of social responsibility goals become sublime.<sup>38</sup>

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<sup>36</sup> Monish Bajracharya, "Business, CSR and Peacebuilding" <http://www.thehimalayantimes.com/perspectives/fullnews.php?headline=Business%26sbquo%3B+CSR+and+peace-building&newsid=MTQ1Mg==>

<sup>37</sup> *Ibid*

<sup>38</sup> Maria Prandi and Josep M. Lozano, "CSR in conflict and post-conflict environments: From Risk management to Value Creation" <http://escolapau.uab.cat/img/programas/derecho/webRSEi.pdf>

## **The importance of social responsibility in peacebuilding**

Social responsibility refers to the responsibility owed of an organisation to society, for the impact of its decisions, choices, policies and actions.<sup>39</sup> It is an inherent duty because we have a right to the resources in the world at large - or at any rate, we claim to have and enjoy that right. In the wake of continually exploitative practices that humanity indulges in, there are several concerns surrounding resources and their availability for use.

Conflict provides the perfect backdrop for the unchecked prevalence of corruption and a lack of accountability. War is a driver of business – as media houses thrive on propaganda, consumerism breaks into existence with the untrammelled prevalence of a state of fear, and there is a large-scale practice of hoarding and black-marketing, besides dumping and extraction of material wealth while forcing an economy to encumber under conflict. The role of social responsibility is immense especially when it involves having to make a choice between what is right and what is easy. For example, in the DR Congo, the continued extraction of conflict minerals happens at low cost to companies purely because of the conflict. Labour is subjected to violence to ensure that they perform their duties in extracting minerals, while warlords and rebel groups revel in bribery and corruption to take these minerals to corporations. The lack of social responsibility keeps the conflict alive while profit-pursuance remains the sole goal.

There are several instances when conflict comes to fore as the rescuer of organisational motives and cheapens labour and resource access. To deviate from this track, organisations and individuals in the chain – right from those involved in leadership and policymaking, to those involved in the organisational hierarchy – need to be sensitised to the advantages that can be derived for an organisation from peace. The state of the country directly affects the state of the economy – and peace is truly a prerequisite for growth and sustainability.<sup>40</sup> Organisations should understand that all of their assets, their workforce, supply and demand, distribution channels and marketing requirements are extrinsic to their existential realm, and individuals must be sensitised into comprehending the value of self-sufficiency stemming from a state of peace.<sup>41</sup> It is imperative that organisations come to understand that it is in its own long-term interest to build responsible government through the active transformation of the culture of corruption that currently exists.<sup>42</sup>

Communities should first take the necessary steps to be sensitised to the conflict around them, to understand the risks, the elements that cause and contribute to it, and to analyse the various roles they have in promoting peace as a responsible choice instead of conflict.

### **Sustainability in efforts**

Rebuilding a community after a conflict takes a lot of dedication not just from external actors, but especially from internal actors. Most experts agree that to be effective, peace-building requires

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<sup>39</sup> *Ibid*

<sup>40</sup> "Peace through profit: Sri Lankan Perspectives and Corporate Social Responsibility" <http://www.international-alert.org/resources/publications/peace-through-profit-sri-lankan-perspectives-corporate-social-responsibility>

<sup>41</sup> *Ibid*

<sup>42</sup> *Ibid*



intertwined processes and structures that run from the grassroots to the national level – especially in deeply fragmented and traumatised societies.<sup>43</sup> There are several potential solutions that aim at achieving the goal of peace-building, but very few are focused on the people they cater to: instead, being heavily focused on the agenda that each of the stakeholders has besides also being competitive instead of collaborative with others involved in the process.<sup>44</sup> There is also a blatant ignorance of the complex relationships between social, political, economical and anthropological factors. To ensure sustainability, there should be an approach that is sensitised, collaborative, building upon and involving locally owned solutions and initiatives.<sup>45</sup> It is also important to identify standards that the given agenda should measure up to – and those that are involved in making it work need to compulsorily adhere to the values they set.

### *Conclusion*

Any solution that is imposed upon them completely externally need not necessarily achieve the end goal of creating peace, as opposed to those that the community itself has a role to play in framing. In furtherance of this goal, we work towards equipping communities to find their own solutions to ensure sustainability. The success of a solution remains in its sustainability, and the sustainability of a solution relies on its ownership. If a solution is owned by those for whom it is a solution, there is an appreciable amount of involvement in believing in that solution, and in making it work. Against this backdrop, the elements of social responsibility and sustainability play significant roles in attaining the end goal of sustainable and durable peace.

Through sharing personal stories, peace becomes a possibility that transcends mere promises. We are inherently interdependent, as a people, as a community, as a world. But we continue to perceive each other with hatred, with negativity, with mistrust, with deep rooted prejudices, all of which we transform into beliefs and then pass onto the next generation in the form of assumptions and stories of hatred, and stereotypes. Storytelling in that sense of the term is a tool of diversity and interconnectedness and of self-discovery. Peacebuilding starts at the lowest level and builds its way right to the top. Speaking at the grass root level brings in a space that people can use to evolve and foster an exchange in peace.

The ability to be open to people all over the world impacts the comprehension of the very quintessence of human nature. The tales of bravery that one recounts: of escaping traumatic treatment through domestic violence, of dealing with adversity of a crippling nature, or of getting out of a challenging reality just out of pure courage have tremendous power in revolutionising the lives of many people that listen and learn from these stories. In the process, people learn to empathise at the tragedies they learn about, and gain from the strength that is developed. Storytelling or story-sharing is the best mechanism of peace that there could be.<sup>46</sup> The creation of empathy is long lasting, impactful and heavily influential in bridging and bridling differences that could potentially culminate in conflict.

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<sup>43</sup> “DRC peacebuilding ignores local solutions” <http://www.ipsnews.net/2013/09/drc-peacebuilding-ignores-local-solutions/>

<sup>44</sup> Dominique Vidale-Plaza, “Durable Peace Series: Part 1” <http://dvplaza.wordpress.com/2013/08/09/durable-peace-series-part-1-regurgitating-narratives-and-narrow-definitions/>

<sup>45</sup> Dominique Vidale-Plaza, “Durable Peace Series: Part 2” <http://dvplaza.wordpress.com/2013/08/21/durable-peace-series-part-2-the-elusive-common-agenda-of-monsters-and-cohesion/>

<sup>46</sup> Ronda Dell Boccio, “The Peace Seed: Personal and Global Transformation Through Storytelling”

## Short life sketch of Ms. Kirthi Jayakumar

Kirthi Jayakumar is an activist, artist, entrepreneur and writer from Chennai, India. She founded and runs the Red Elephant Foundation, a civilian peacebuilding initiative that works for gender equality through storytelling, advocacy and digital interventions. She also founded and runs fine PRINT, a feminist e-publishing imprint. She is a member of the Youth Working Group for Gender Equality under the UNIANYS.

She coded an app for survivors of gender-based violence called Saahas, which works as a web and mobile app. She taught herself to code and created a web app, a mobile app and a Facebook ChatBot to support survivors of gender-based violence across 196 countries, and to assist bystander intervention.

In 2016, Kirthi was invited to Michelle Obama's United State of Women Summit at the White House in Washington DC, as a nominated changemaker. In 2017, she was one of the youth activists invited to attend President Obama's Town Hall at New Delhi.

Kirthi has spoken at TEDx Chennai, addressing Peace Education as a means to end Bullying. She has also spoken at FICCI FLO, as one of the youngest speakers to address the members. Kirthi has also had the distinction of addressing the UNV Partnerships Forum on her work as an epoch-making online volunteer with the United Nations.

Kirthi is the recipient of the US Presidential Services Medal (2012) for her services as a volunteer to Delta Women NGO, from President Barack Obama. She is the two-time recipient of the UN Online Volunteer of the Year Award (2012, 2013). She received the 2016 Orange Flower Award from Women's Web, the 2016 World Pulse Impact Leader Award and the 2017 Empowerment Leader Award from the Dais Foundation. Her work has been published in The Guardian and the TIME Magazine. She was recognized by EuropeAid on the "200 Women in the World of Development Wall of Fame in 2016." She received the Digital Women Award for Social Impact in 2017, from SheThePeople, the Person of the Year (Social Entrepreneur) 2017 from The Brew Magazine. Kirthi is a recipient of the Yuva Samman from MOP Vaishnav College, in January 2018.

Besides her professional engagements, Kirthi is an author, and released her debut novel in 2017, titled The Doodler of Dimashq. Her second book, The Dove's Lament, made it to the final shortlist for the Muse India Young Writers' Literary Award. Kirthi is a Zen Doodler, and runs a HerStory project called Femcyclopaedia. Her works have been commissioned by corporate establishments, non-profits and art collectors world over. She wrote and acted in Frankly Speaking, a play that takes off from where Anne Frank's Diary ended, and also wrote and acted in two other plays, named Her Story and Dolls.

# A journey from South Asia Peace to Global Peace

By PV Rajagopal

In the context of South Asia, SAARC (South Asia Association for regional Cooperation) is still a great hope. Youth of SAARC and peace builders of SAARC need to find a special place within SAARC process. I see the work of BIMS work from this angle. The very fact that BIMS stands for an International process and also stands for mediation between conflicting interests in itself is a matter of satisfaction and hope for me. Through the efforts of BIMS if people learn to mediate, also learn to think at an international level, I am sure the contribution of BIMS will be historical. But there are some challenges as well in promoting peace.

I am reminded of an old proverb when thinking of peace building “Peace is the only way but there is no way to peace” The larger challenge that today peace builders are faced with is how to bring about peace in the world while our immediate challenge is how to establish peace in South Asia?

We knew that in a world where nationalism doesn't allow people to move towards internationalism or leaders with lower levels of consciousness will not allow people to expand their consciousness we were undertaking a uphill task to help people to think at South Asia level and find solutions to various problems from South Asia perspectives.

We live in a world where those in leadership position are trying to change the thinking of the people they lead according to their capacity. When one can't elevate one's own thinking and leadership to operate at a global level or at least at the level of Asia, what is easy is to do is to curtail the thinking of the people to the level of nation, sub nations, states, religions, caste sub caste etc. Our world today is faced with this problem and as a result there are more and more sub regional, religious, caste leadership as opposed to global leadership that can unite people and work towards a peaceful world.

Back in the 90's some of us embarked upon an idea called South Asia Peace Alliance with an intention to expand our own thinking and understanding to a South Asia level instead of operating only from our respective national levels. It was the outcome of many consultations and youth training programs that we organized across South Asia. In a meeting in Nepal, finally we decided to give it a formal shape and that is how SAPA (South Asia Peoples Alliances) was born.

- The first objective of SAPA was to promote peace and Nonviolence among the youth through youth camps and youth training programs across South Asia. In fact we had a very ambitious agenda of training 10 young people in every district of South Asia. There are some 900 districts (majority being in India) and the idea was to slowly reach out to 9000 youth who can think and speak for peace in South Asia.
- The second objective was to encourage & support local peace initiatives in areas of conflict.
- The third objective was to promote greater understanding among participants about the people and culture of other countries in South Asia through discussion, exposure etc.

We made some efforts in promoting peace in the region through o

We were able to make significant progress on each of our desired outcomes. We trained a number of young people from the region and helped them think from a larger level of consciousness. Through our work in Sri Lanka during the days of the conflict, interaction with youth of Chittagong Hills to reduce conflict in the North East of India, efforts in Nepal to contain the Maoist violence through many small interventions, and engagement with many small institutions in India and Pakistan to develop greater understanding about each other were all very important and path breaking and we feel all these actions must have contributions in peace building in Asia.

From the process of SAPA, we moved on to relate with many peace building processes in other parts of the world. We had the opportunity to closely work and participate in the peace process in Colombia and also learn from the process of Nicaragua, Brazil and many African Countries. We were involved in supporting the peace process in Georgia which is in the Southern Caucasus region. We were part of many discussions and training in Europe and North America. We feel fortunate to be invited to so many peace building processes in different parts of the world and can confidently say that there are many more peace building efforts in this world than what is being reported in the media. The media gives greater coverage to war and violence whereas the reality seems that there are far greater numbers of peace building efforts. There are more rewards and recognition for peace building compared to what is available for violence.

If we come together, put our mind and heart together I am sure we can build a peaceful world. This is where one should salute our Vinoba Bhave a disciple of Mahatma Gandhi, who spoke about Jai Jagat as early as in the 1970s.

As a follower of Gandhi who is also rooted in spiritualism he could see through the mind of people around him. He could feel that many of them were limited by their thinking along the lines of their religion, caste, language etc. Thinking from a larger global consciousness was not easy for many of them. Their small mindedness was reflected in their speech, slogans and ideas.

In order to lift people from their level of narrow minded sectarian thinking and lead them to a higher level of consciousness Vinobha Bhave introduced the idea of Jai jagat (well being of the world.) He called on his followers to understand global reality and work towards a happy planet by breaking through the narrow mindedness of the mind and heart.

He wanted people to understand that the agenda of "well being all" naturally includes the agenda of individual well being or well being of a particular country. Whereas what we see in society is the exact opposite way: each individual or group trying to promote their/its well being at the cost of the society or the planet. The concept of Jai jagat brings a radical shift in our understanding.

Vinoba wanted some important ideas of Asian civilization to take centre stage at the level of ideas in order to help the world to resolve many of the problems they are faced with. The Asian civilization speak about "Sarve Bhavantu Sukhinaha"... that means let everyone be happy, let everyone be healthy no one should suffer sadness. In this concept one is not speaking only about Asia but is speaking about the whole world. It doesn't speak of my people, my country etc. This is very different from a concept of

"God Bless America". The Asian concept speaks about not only human being but also "Charachar" that means all being living or not living. By introducing the idea of Jai Jagat, Vinoba brought the thinking of human race to a higher pedestal.

Year 2020- is going to see a big action in Geneva. 5000 people are coming together in Geneva to speak about Jai Jagat. They are coming from different parts of the world. They are representing different cultural groups, economically poor and rich in solidarity with each other. Some of them will come walking and others by using whatever mode of transport they can use.

All of them are coming to sing and speak about Jai Jagat. They are coming to speak about a better way of using resources to make the world a better place. They are coming to tell how they have organized their life around limited resources and still are happy. They are also here to remind all of us that the planet needs to be protected by changing the way we live as we deal with the planet.

Jai Jagat Action 2020 in Geneva is a global action to lift everyone to a higher level of conciseness so that the world becomes a better place to live at the next some situation will inherit a planet that is just and peaceful. Actions like Jai Jagat 2020 are platforms for different groups to create their own space while collectively shifting the conversation. I invite everyone to take advantage of Jai Jagat 2020 to shape their own ways of engaging be it at the level of our respective communities, our nation, at the level of South Asia or at global levels.

***Jai Jagat***

# Nonviolence – The Path to Peace

By Prof. G. Surender Reddy

*National Convener, 3i STEM Forum  
Corporate Advisor, Butterfly Edufields*

“The essence of nonviolent technique is that it seeks to liquidate antagonisms but not the antagonists.” – Mahatma Gandhi

“World peace through nonviolent means is neither absurd nor unattainable. All other methods have failed. Thus we must begin anew. Nonviolence is a good starting point. Those of us who believe in this method can be voices of reason, sanity, and understanding amid the voices of violence, hatred, and emotion. We can very well set a mood of peace out of which a system of peace can be built.”  
–Martin Luther King, Jr.

“Since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed.” – Unesco, Preamble

Hundreds of millions of people died violent deaths in the many wars of the twentieth century. Twenty-first century, too, began on a violent note with the 9/11 terrorist attack on the World Trade Centre. There have been many more terrorist attacks after that, as well as wars. Still, let us hope that the twenty-first century and beyond will be largely one of nonviolence and peace, one which is based on justice, and free from conflicts and war, poverty and environmental degradation. If not, there is little hope for humanity given the humongous stockpile of nuclear weapons we are sitting on. It is highly imperative that we learn that violence can never be used to advocate one's beliefs or causes.

It is a matter of great concern that the 2018 Global Peace Index (GPI), produced by the Institute for Economics and Peace, shows the world is less peaceful today than at any time in the last decade. The GPI covers 99.7% of the world's population, using 23 qualitative and quantitative indicators from highly respected sources, and measures the state of peace using three thematic domains: the level of Societal Safety and Security; the extent of Ongoing Domestic and International Conflict; and the degree of Militarisation.

The economic impact of violence on the global economy in 2017 was \$14.76 trillion in purchasing power parity (PPP) terms. This figure is equivalent to 12.4% of the world's economic activity (gross world product) or \$1,988 for every person. The 2018 Global Peace Index uniquely reveals that peacefulness has a considerable impact on macroeconomic performance. In the last 70 years, per capita growth has been three times higher in highly peaceful countries when compared to countries with low levels of peace. The difference is even stronger when looking at changes in peacefulness, with the report finding that per capita GDP growth has been seven times higher over the last decade in countries that improved in peacefulness versus those that deteriorated. Peacefulness is also correlated with strong performance on a number of macroeconomic variables. Interest rates are lower and more stable in highly peaceful countries, as is the rate of inflation. Foreign direct investment is more than twice as high in highly peaceful countries. These real life consequences of peace make it a matter of urgency that we eschew violence.

Nonviolence doesn't just mean eschewing violence; it also means the taking of positive action to resist oppression or bring about change. The aim of nonviolent conflict is to win over your opponent to your point

of view. In doing so, the opponent must be given a face-saving way of changing their mind. The persons resorting to nonviolence do not want to make their opponents suffer, but rather they are willing to suffer themselves in order to bring about a change. The great appeal of nonviolence lies in the fact that it is patently illogical to try to make the world peaceful by using violence as a tool because means are ends in the making; nothing good can ultimately result from violence.

Gene Sharp defines nonviolent action as those methods of protest, noncooperation, and intervention in which the actionists, without employing physical violence, refuse to do certain things which they are expected, or required, to do; or do certain things which they are not expected, or are forbidden, to do. In a particular case there can of course be a combination of acts of omission and acts of commission.

The World Health Organization defines health as not merely the absence of disease or infirmity, but as the complete state of physical, mental and social well being. In the same way, we can define peace not merely as the absence of violence, but as a positive state or condition of harmony. It is determined by loving, harmonious acts which elicit the good in each other (direct peace), by fair and horizontal relationships (structural peace), and by a culture of peace (cultural peace). Professor Johan Galtung defines peace as the capacity to handle conflicts with empathy, creativity and through nonviolent means.

As the Harvard Divinity School notes in its publication *Our Method*, the “Father of Peace Studies”, Norwegian theorist Johan Galtung, has developed a three pronged typology of violence that represents how a confluence of malleable factors merge in particular cultural/historical moments to shape the conditions for the promotion of violence (and, by inference, peace) to function as normative.

- **Direct Violence** represents behaviors that serve to threaten life itself and/or to diminish one’s capacity to meet basic human needs. Examples include killing, maiming, bullying, sexual assault, and emotional manipulation.
- **Structural Violence** represents the systematic ways in which some groups are hindered from equal access to opportunities, goods, and services that enable the fulfillment of basic human needs. These can be formal as in legal structures that enforce marginalization (such as Apartheid in South Africa) or they could be culturally functional but without legal mandate (such as limited access to education or health care for marginalized groups).
- **Cultural Violence** represents the existence of prevailing or prominent social norms that make direct and structural violence seem “natural” or “right” or at least acceptable. For example, the belief that Africans are primitive and intellectually inferior to Caucasians gave sanction to the African slave trade. Galtung’s understanding of cultural violence helps explain how prominent beliefs can become so embedded in a given culture that they function as absolute and inevitable and are reproduced uncritically across generations.

These forms of violence are interrelated and mutually reinforcing. Galtung provides a representation of these intersecting forces in the following commentary on slavery:

Africans are captured, forced across the Atlantic to work as slaves: millions are killed in the process—in Africa, on board, in the Americas. This massive direct violence over centuries seeps down and sediments as massive structural violence, with whites as the master topdogs and blacks as the slave underdogs, producing and reproducing massive cultural violence with racist ideas everywhere. After some time, direct violence is forgotten, slavery is forgotten, and only two labels show up, pale enough for college textbooks: “discrimination” for massive structural violence and “prejudice” for massive cultural violence. Sanitation of language: itself cultural violence.

Some of the most famous examples of people who have used nonviolence to bring about peace are Mahatma Gandhi, Martin Luther King, Jr., and Nelson Mandela. As Mahatma Gandhi opined, "Nonviolence is the greatest force at the disposal of mankind. It is mightier than the mightiest weapon of destruction devised by the ingenuity of man." Nonviolent action includes the large class of phenomena variously called nonviolent resistance, satyagraha, passive resistance, positive action, and nonviolent direct action. While it is not violent, it is action, and not inaction. It is not pacifism, and in fact has in the vast majority of cases been applied by nonpacifists. The motives for the adoption of nonviolent action may be religious or ethical or they may be based on considerations of expediency. Some of the techniques of nonviolent action are (see the 198 methods of nonviolent action here - [www.aeinstein.org/nonviolentaction/198-methods-of-nonviolent-action](http://www.aeinstein.org/nonviolentaction/198-methods-of-nonviolent-action)):

- peaceful demonstrations
- sit-ins
- picketing
- holding vigils
- fasting and hunger strikes
- strikes
- blockades
- civil disobedience

Wikipedia notes that from 1966 to 1999, nonviolent civic resistance played a critical role in fifty of sixty-seven transitions from authoritarianism. Recently, nonviolent resistance has led to the Rose Revolution in Georgia and the Orange Revolution in Ukraine. Current nonviolent resistance includes the Jeans Revolution in Belarus, the "Jasmine" Revolution in Tunisia, and the fight of the Cuban dissidents.

Many movements which promote philosophies of nonviolence or pacifism have pragmatically adopted the methods of nonviolent action as an effective way to achieve social or political goals. They employ nonviolent resistance tactics such as: information warfare, picketing, marches, vigils, leafleting, samizdat, magnitizdat, satyagraha, protest art, protest music and poetry, community education and consciousness raising, lobbying, tax resistance, civil disobedience, boycotts or sanctions, legal/diplomatic wrestling, underground railroads, principled refusal of awards/honors, and general strikes. Nonviolent action differs from pacifism by potentially being proactive and interventionist.

Michael Nagler, writing in *Nonviolence Magazine*, outlines the following six principles of nonviolence:

### **1. Respect everyone—including yourself.**

The more we respect others, the more effectively we can persuade them to change. Never use humiliation as a tool—or accept humiliation from others, as that only degrades everyone. Remember, no one can degrade you without your permission.

### **2. Always include constructive alternatives.**

Concrete action is always more powerful than mere symbolism, especially when that action creates constructive alternatives: setting up schools, forming cottage industries, establishing farming cooperatives, devising community-friendly banking. Gandhi initiated 18 projects that enabled Indians to take charge of their own society, making it much easier to "dismiss" British rule and lay the groundwork for their own democracy.

### **3. Be aware of the long term.**

Nonviolent action always has positive results, sometimes more than we intended. Violence sometimes "works" in the sense that it forces a particular change, but in the long run, it leads to more misery and disorder.



#### **4. Look for win-win solutions.**

You are trying to rebuild relationships rather than score “victories.” In a conflict, we can feel that in order for one side to win the other must lose, which is not true. Therefore, we do not seek to be winners or rise over others; we seek to learn and make things better for all.

#### **5. Use power carefully.**

We are conditioned to think that power “grows out of the barrel of a gun.” There is indeed a kind of power that comes from threats and brute force—but it is powerless if we refuse to comply with it.

#### **6. Claim our legacy.**

Nonviolence no longer needs to take place in a vacuum. Always note that if you are using nonviolence with courage, determination and a clear strategy, you will do more than likely succeed: win or lose, you will be playing your part in a great transformation of human relationships that our future depends on.

These six principles are founded on a belief that all life is an interconnected whole and that when we understand our real needs, we are not in competition with anyone. As Martin Luther King said, “I can never be what I ought to be until you are what you ought to be. And you can never be what you ought to be until I am what I ought to be.”

A study by Erica Chenoweth and Maria Stephan found that nonviolent revolutions are twice as effective as violent ones and lead to much greater degrees of democratic freedom. Concerted efforts are needed on the part of international agencies, educators, academicians, activists, civil society actors, policy makers, and also you and I in our limited capacity in our own spheres of influence, to take the nonviolent agenda forward.

# Managing Conflict: The Key to Bangladesh's Future

By Dr. Richard L. Benkin (USA)

*Human Right Activist & International Ambassador of BIMS*

**Address to Bangladesh International Mediation Society  
September 22, 2018  
Dhaka, Bangladesh**

Conflict is a basic element of human society. How could it possibly be otherwise, given the variety of human experience? Just look at Bangladesh—a country where more than nine out of ten people have the same religion, 98 percent share the same ethnicity, and 99 percent speak the same language; yet, conflict is all around us. And conflict is not only inescapable; it's also good. How we manage it; now, that's a serious way to assess our level of civilization.

To what extent do we manage conflict through violence? To what extent do we effectively limit those who can use that violence without facing serious sanction? And to what extent do those people use violence—or the threat of it—only for legitimate purposes as defined by law? Finally, to what extent have we overcome violence as the way we manage conflict? Because although conflict is basic to human society, violence is not. I believe we are gathered here today to help Bangladesh provide better answers to those questions.

Good afternoon. It's a privilege for me to address this group, and I owe a special debt of thanks to Advocate S.N. Goswami, a dear friend who has battled alongside me for human rights. You know, sir, I never got the chance to express my admiration for your courageous lawsuit that challenged how Bangladesh, which calls itself a secular nation, could have an official state religion. Let me say that I and the people of the United States share your knowledge that the two things are incompatible. Our Constitution's Bill of Rights begins: "Congress shall make no law respecting an establishment of religion." Because once you do that, nothing that follows can change the fact that the supremacy of a particular religion has been written into the law.

And your action was courageous because we know that there are many people, both in and out of government here, who were not pleased with your perfectly legal action. We only hope that their commitment to the rule of law is as strong as yours; so that like yours, it remains strong even when things don't go their way. Fidelity to the rule of law is one way we manage conflict.

Imagine a world where there was no conflict, where people thought alike and agreed with one another. It would be a world that never developed, a world that allowed terrible things to be done to the rare few who expressed different ideas. Fortunately, conflict is always going to be with us, and it is up to each and every one of us to help manage it

Good example. On my very first trip to Bangladesh, I was approached by religious fundamentalist, a Muslim, who asked if he and an associate could come to my hotel room the next day for an interfaith discussion. I said that I'd love to do it, however, if we're going to have that talk, it makes sense only if we are totally frank with one another even if that means being uncomfortable or angry. And since I knew we would be spending lot of time on the Middle East, I said that I fully expected them to defend their coreligionists in that conflict, but they needed to know that I would be equally passionate defending mine. We shouldn't expect it to be all smiles and pleasantries. Honesty would mean conflict; and what would be the point of any of it, if we're more concerned about being polite than about honesty?

So they dropped by the next day, particularly excited since neither of them had ever met a Jew before: but that created a conflict for them before we even began. When, in true Bengali custom, I offered them the tea and snacks I ordered, they, contrary to Bengali custom, refused them. According to another Muslim there, they would not accept food from the hands of a Jew. So, he served it. Then it was my turn. One of my guests was introduced as a former Mujahadin commander in Afghanistan. The war there was raging, and I said that I wouldn't sit with anyone responsible for killing American soldiers. Fortunately for our discussion, he was there fighting the Soviets. Still, that's how the day started; very tense; and after about four hours of it, my visitor said, exasperated, "We disagree on so much."

"True," I replied, "but at least we are not lobbing bombs at one another."

He smiled, so I seized the moment. "We have an expression in the United States. You and I, we can 'agree to disagree.' We can have conflicts while respecting and maybe even caring for one another." He liked that, and smiled some more, so I continued.

"In fact I've always believed that the true measure of a civil society is the extent to which it can accommodate people who disagree, even passionately, and recognize everyone's legitimacy."

Since that time, we've been friends, brothers; even though we still continue to agree to disagree on many things. Embracing our conflict, however, allowed us to recognize how much more we had in common. Hold on to that insight about the inevitability of conflict, but not of any particular method for resolving it.

Most people know me as a human rights activist, but like everyone else, I have to make a living, too; and I don't make a living through human rights, which is a good thing. I long ago decided that if I was going to make any kind of useful contribution, my actions had to be free of any motive other than doing the right thing. I knew there would be people who opposed the cause I was fighting for, and that to stop it, they would try to cast doubt on my motives; because there is simply no justifiable reason for opposing freedom and justice. And many did try, but their accusations all proved to be false and therefore could not stop justice from being done.

I'm proud of that, but I still have to make a living. So, one of the things I do is to help people resolve very high dollar workers compensation claims in the United States. In the US, workers compensation is an insurance policy that employers buy for their employees. This way, workers who get hurt on the job have their medical bills paid for and, in many cases, receive compensation for any permanent damage related to that workplace injury or illness. Claims are adjudicated by legal bodies, and there are 52 different workers compensation systems: one each for the 50 states, Washington DC, and the federal government; and they vary tremendously. I help employers navigate those different systems to achieve the best outcomes for their companies and their workers.

Workers' protection is absolutely necessary, but the systems for securing it can be flawed. Some officials try to use it as a form of social insurance regardless of the employer's culpability; there is a great deal of fraud and abuse; and people on both sides get caught up in emotion: workers who want to take out their frustrations on that "big, bad" corporation; and employers who don't like that particular worker and tell me that they don't "deserve a penny." I bring them back to what you all learned as attorneys: I don't care how you feel; I care about what you can prove. That is, I care about the law and what the law says is a just resolution.

I help people understand the realities they face and the range of possible outcomes: the costs of resolving the conflict or not, not just the immediate liability; and the realistic range of resolutions: not just what we'd like, but what the law allows us. Then I direct attorneys and others in negotiating a resolution to their conflict that does right by employer and employee. No one gets everything they want, but I hope they all get what they deserve. And maximize your negotiating abilities.

Sometimes, mediation is the only way to bring the sides together because both sides have strengths and weaknesses, good points and bad, and justifiable demands and expectations; and both can get stuck on their own sense of what's right, especially when the conflict has dragged on for years or even decades, such as the minority persecution here and the its ability to occur with impunity, which we will get to soon.

When two parties are locked in conflict, they each are concerned with maximizing their rewards. Even if they know that they can't get what they want without rewarding the other party in some way, it is only coincidental to their own goal, a necessary inconvenience. An independent mediator, on the other hand, recognizes the just claims that both parties have and is charged with maximizing the benefit to both in accordance with applicable laws.

We can apply those same principles to help Bangladesh get past its greatest challenges and deficits; the greatest of which is the serious gap between the Constitution's promise of religious liberty and the reality of life for Bangladesh's minorities, especially Hindus.

Pakistan's 1951 census counted Hindus as almost a third of East Pakistan's population. When East Pakistan became Bangladesh in 1971, they were under a fifth; 30 years later under a tenth; and today, they are estimated at about one in 15. Throughout that time, there have been continual atrocities, including murder, rape, child abduction, forced conversion, religious desecration, and more. The spoils often go to party loyalists, regardless of which party according to Dhaka University's Abul Barkat; and every Bangladeshi government has been either unable or unwilling to take effective action. Crimes go unpunished, and some government officials have participated in cover-ups and even the crimes themselves.

For decades, successive governments would insist that there was no problem for Hindus and other minorities in Bangladesh, and try to explain away the evidence. One former Bangladeshi official told me that the drop in Hindu population was due to Hindus "sending their children to India for acceptable matches." I believe my response was to ask him if he thought I had the word "stupid" written across my forehead. Those officials frequently justified their assertions by stating that Bangladesh's constitution guarantees freedom of religion—as if the written law is faithfully reproduced in practice; something that flies in the face of the reality that everyone in rooms like this worldwide have seen. Did you ever read the Soviet Union's constitution under Stalin?

But something changed in 2016. In July that year, new Bangladeshi Ambassador to the US Mohammad Ziauddin met with former Congressman Robert Dold and me just outside the House Ways and Means Committee room. The US House Ways and Means Committee is responsible for taxation, customs duties, and international trade agreements; and the significance could not have been lost on the ambassador. After it became clear that Congressman Dold and I were too knowledgeable to be satisfied with the standard denials and generalities; the ambassador admitted that Hindus do indeed face violence and persecution in Bangladesh. Now, to be fair, he has since tried to walk that back, saying that "further information" convinced him otherwise; but we all dismissed that as a response to criticism from his superiors. Besides, the "damage" was already done, the admission made. As we say in the United States, you can't put the toothpaste back in the tube once it's out.

Beyond that, whether the Bangladeshi government realized it, the admission was a good thing. Everyone knew the truth anyway, and the admission told us that we were not dealing with unreasonable people. These are people who would admit their shortcomings rather than lie in the face of massive evidence. We were impressed, and it led to productive discussions among several of us and the good people at the Bangladeshi embassy in Washington.

I changed, too. For years, I insisted that there was no difference between the Awami League and the Bangladesh Nationalist Party, certainly not when it came to protecting Hindus. I would refer to Professor Abul Barkat's study showing that both parties were equally complicit in stealing assets seized under the Vested Property Act, as well as other data showing no drop in anti-Hindu actions during either party's reign. But as I had increased talks at the embassy, it was clear to me that the people there would prefer to see an end to the violence, in fact, recognize that it is contrary to the principles of both the nation and their party.

Let me be clear that I had no intention of backing down on my insistence that the persecution be stopped, however, as the same time, I stopped seeing the Bangladeshi government as nothing other than an adversary. We could work together.

The changes on both sides opened the door for real progress and productive negotiations; and it will take a skilled mediator to help us close the gap between the written law and practice, without unfairly tarnishing the Bangladeshi government or hurting its people. We need to get the Bangladeshi government to the negotiating table, and I'll continue to work with your embassy in Washington. I'm also involving more and more serious members of the US Congress who control things like what we import and who gets UN Peacekeeping funding. I expect that BIMS and/or individual members have standing and influence and that you will make similar efforts here.

A successful mediation requires that the mediators first figure out the motives for those who participate in or are complicit in the ethnic cleansing of Bangladesh's Hindus? After spending over a decade on this, I believe that it is not hatred. Some might have contempt, more likely, though, a feeling of entitlement for Muslims over Hindus; but not hatred, which is far more difficult to overcome and impossible to accommodate. And that small minority for whom hatred is a prime motivator, they need to know that they have no place at the table, and that this government will have no tolerance for them—and that means action not just words.

I believe that the payoffs do include:

- Graft in the form of looted property, bounty for bringing forced converts, spoils confiscated under the Vested Property Act, and so forth.
- Political support from those who benefit from the above spoils and the impunity that exists because of their "influence."
- Reduced political opposition by those who benefit from the despoliation of Bangladesh's Hindus, whether monetarily or otherwise.
- And easier management of police and civil service through the rewards or their expectation.

None of those rewards have to come from their current sources, and no one's money must come from graft. They are the current sources, which our mediation must change; that is, replace wealth from graft with wealth from productive economic activity. What are the causes of these dysfunctional sources of information?

- Corruption is Number One, and a tolerance for illicitly gotten gain. If you don't change that, we can forget about changing these dynamics. You know, we in the United States went through a period when we had to undergo the same process; but now, there is no tolerance for graft. It occurs, because you can do only so much to control human behavior, but only until people find out, because we have a zero tolerance for it. Is it a stretch for me to think you can do the same? You tell me.
- Bangladesh's Culture of Impunity is almost equally to blame, which allows bad behavior to go unpunished—also something we had to correct. In the end, all of it comes down to contempt for the rule of law, something all of us must fight without exception.

- Fear of what might happen if you call out corruption or do things the right way, but that gets fixed if the rule of law prevails.

- And an economy that is insufficient to support its citizenry without ample amounts of graft. I am very confident of the resources at my behest that can help change that for the people of Bangladesh.

With that, there are only three things we still have to determine.

- First, who are the parties involved? Obviously, one is the Bangladeshi government, but who represents the Bangladeshi Hindus? Community organizations? Not alone; they are too vulnerable to pressure and intimidation, plus they have not shown that they would be formidable negotiators. Human rights activists or organizations? Also vulnerable. For either to be effective, there needs to be an outside party that will bring significant negotiating elements and have no fear of retaliation for taking tough stands. So, there should be some combination of the above?

- What legal standing do the parties have to make agreements and concessions? How can they be chosen with credibility for the Bangladeshi Hindu community, the government, and even international parties? A decision best left to lawyers.

- How will agreements be monitored and enforced, including how sanctions for non-compliance would be imposed? Do we include international parties in this, whether the United Nations, SAARC, India, or the United States? There must be teeth in whatever we do! It might take some work to get there, and it must involve all actual and potential parties. While, difficult, however, it is absolutely essential or whatever we do will be just words, no action. And we've had far too much of that.

**Thank you.**

# Community Led Land Rights Campaign in Nepal

By Jagat Deuja,  
*Land Right Activist, CSRC*

## 1. About CSRC and it's work:

Community Self Reliance Centre's (CSRC) work revolves around ensuring land and agrarian rights of land poor farmers. It has supported these farmers to establish their own organizations known as Land Rights Forum (LRF) at village, district and national level. Through this collaboration, CSRC and the NLRF have 98,275 members that meet in local chapters across Nepal, and have facilitated land and agrarian rights campaigns in 54 districts.

Guided by its mission to 'enhance the power of land-poor farmers leading land and agrarian reforms', one of key objectives CSRC pursues is to contribute to development and implementation of policies and governance mechanism that protect and promote resource-poor farmers' land and agrarian rights.

CSRC has remained committed to adopting rights based approach to empowering the landless/tenant farmers to assert and claim their rights to land through non-violent campaigns and legal processes.

CSRC engages the government at the federal, provincial and local levels in its policy advocacy work. It facilitates dialogues between the LRFs and the politicians, bureaucrats and relevant line ministries, while collaborating with the state party to address land rights issues.

It also significantly contributed to drafting of the Right to Food Bill, successfully pushed for provisions of pro-poor land policies in the new constitution and contributed to drafting of the National Land Policy.

CSRC has supported 44,135 landless/tenant farmers to obtain land ownership document and over 6,000 couples to acquire joint ownership of land. Most recently, it supported 12,955 landless survivors of the 2015- earthquake to claim land and thereby the government's reconstruction grant.

## 2. Context of work

Land ownership traditionally remains the main source of wealth, social status, and economic and political power in the contemporary semi-feudal agrarian society of Nepal.

Landlessness is as high as 29 %. Over 44% Dalits in the Terai and 22% of those in hills are landless and, thereby, deprived of their socio-economic rights. While landlessness is very high in the country, over 30 % of cultivable land is estimated to have been left fallow for various reasons such as increasing migration of youth, rapid urbanization, decreasing competitiveness for agricultural produce and use of farm land for alternative purposes.

Over half the populations do not have enough land to live on. 66% of Nepalese depend on agriculture for their livelihood. 53% are smallholders and owning less than 0.5 hectare of land. 26.1% of agricultural households do not have land to farm on. At least 10 % of the rural population (2.3 million people) have absolutely no shelter or farmland of their own. 12.24 millions Women are working as a farmer but 11 Millions have not landownership over the land and their homes.

Average Land holdings by family: 0.68 ha. Increased land grabbing and forced eviction by powerful elites and the state respectively.

Only 19.71% Nepali women have the ownership of land despite the fact that women are the ones involved most in agriculture labor. Due to this women's power equation in family, community and society at large is weak.

For rural people, land is their greatest asset: the source of food and water, the site of their livelihoods, and the locus of history, culture, spirituality, and community. Yet population growth, climate change, and increasing global demand for land and natural resources are putting pressure on increasingly scarce lands and natural resources. Meanwhile, rural communities' land claims are being threatened by investors seeking land for logging, mining, infrastructure and agribusiness ventures, and by national elites and government agencies claiming millions of hectares of land for mega-projects and speculation.

### **By-laws Drafting Process**

#### **Case Study: CSRC's work in Nepal**

Community Self Reliance Centre (CSRC) from 2013 until 2016. CSRC's primary aim was to the challenge of landlessness and inequity in the Terai region of Southwest Nepal. CSRC piloted the project in four "communities" (one municipality and three Village Development Councils, encompassing over 27,000 hectares of land across Bardiya and Kailali Districts) that together had a combined population of more than 80,000 people. Led by teams of young facilitators selected by their communities, the communities spent many months deliberating and adopting local bylaws. The bylaws adoption ceremonies were each attended by over 2,000 people; after they were adopted, key government officials and hundreds of community members signed the bylaws. Thousands of printed copies of the bylaws were then distributed throughout the region.

In preparation for the bylaws drafting work, the communities were led through "visioning" and "valuation" activities. During the "visioning" activity, community members reflect on the condition - and relative abundance - of their lands, natural resources, and socio-cultural life many years in the past, today, and many years in the future (if circumstances continue along their current trajectory). In the "valuation" activity, community members make a list of all of the natural resources that they gather from community forests and common lands, then calculate how much they would have to pay to purchase these resources in the local market if they could not go into their common lands to freely gather them. Together, these activities generally create an acute sense of urgent need to protect and conserve the local ecosystem. Reflecting on the impacts of these activities, a community member in Bardiya District explained how, even though the original goal of the project was to address landlessness, once they completed the visioning activity, the goal changed:

The project taught us about remembering how the situation 30 years ago, how is the situation now, and how will be the situation 30 years in the future. 30 years ago there was plenty of forest, and now that is decreasing, and so for the future we are trying to get our forest back, to restore our ecosystem to what it was like in the past, so we focused on conservation as the goal of the project.

In response to future visions of environmental degradation, the Nepali communities passed bylaws outlawing the use of chemical fertilizers and mandating the use of natural, traditional fertilizers; prohibiting fishing using poisonous chemicals and electric-shock tactics; prohibiting water contamination; and requiring all community members to actively plant trees, among many other conservation-focused rules.



An informal 2018 impact assessment found that most community members interviewed could recite many of their bylaws from memory. For example, community members in Bhanjani Municipality were collectively able to “shout out” a significant number of their bylaws; one man offered that: “We made rules for ending poisoning in the river and no more fires in the forest. Until today, these rules are being followed and enforced!” while others in his community explained how the community’s new rules outlawing child marriage and child labor, requiring joint land certificates for husbands and wives, mandating equal wages for women and men doing the same work, and calling for women’s participation in local land governance were also being strictly enforced.

In Bardiya District, community members similarly reported how, in the two years since the 2016 passage of their bylaws:

“No one is now using pesticides in ponds and rivers – this has totally stopped – we made a very strong rule and have been enforcing it. Before this project this was happening massively, but now no one uses pesticides to fish in the river and the pond. Now, as a result, we had no idea if the water quality is enhancing or not because we have not tested it, but we can say is that now we are getting more fish. The water is more clean, there are more plants.”

### **Lessons Learned**

Writing down a community’s indigenous/customary rules for local land and natural resources management – and then adapting them to align with national laws and best address the challenges of today’s circumstances – is key to community land and natural resource protection. Rules should not come from above, but be grounded in a community’s traditional culture, history, and specific ecological and cultural context. When community members are supported to critically reflect on the future they would like their grandchildren to inherit - and then to create rules to ensure that future vision of a thriving local ecosystem and a flourishing society - it is possible to change even seemingly-entrenched unjust or unsustainable practices. Local rulemaking can empower communities to protect **their lands**, drive the course of their own development, create more equitable societies, and preserve **ecological** and cultural diversity for future generations.

### **By-law formulation process,**

- 1st Draft. The community collectively “shouts out” all of their existing local rules and all the rules their ancestors followed in the past. The meeting is split into small groups of men, women and youth to ensure that all voices are heard. The groups present back to the community, and everything that is said is written down onto big sheets of paper organized into three categories:
  - Rules about leadership and land governance, including rules about who can be a leader, leaders’ responsibilities, how decisions about land and natural resources should be made, how to resolve conflicts, etc.;
  - Rules about use and management of natural resources, including rules about water, forests, livestock, hunting and fishing, thatch and building materials, seasonal users’ rights, etc.; and
  - Cultural and social rules including rules about women’s rights, children’s rights, rules for relationships with neighbors, etc.

Nothing is debated at this time; the goal is capture all past and present community norms and practices just as they are.

- 2nd Draft. The community reviews the 1st Draft of the by-laws, deletes old rules that are no longer useful, changes existing rules that should be updated, and adds new rules necessary for today's realities. During this stage, specific meetings are held for each topical section of the by-laws, with facilitators teaching about national laws that address the topic being discussed. Experience has shown that the 2nd draft of the by-laws is effectively discussed and agreed in an order such as:

- Meeting 1 Rules about streams, rivers, lakes, springs, wetlands and all related natural resources
- Meeting 2 Rules about forests and grazing lands and all related natural resources
- Meeting 3 Community definition, members, inclusion and exclusion
- Meeting 4 Women's and minority groups' rights to land and natural resources
- Meeting 5 Leadership, accountability, community decision-making and elections
- Meeting 6 Community processes for interacting with investors
- Meeting 7 Financial transparency and management of community money
- Meeting 8 Land use planning and zoning
- Meeting 9 Cultural and social rules, including rules about sacred areas

- Legal Review to ensure alignment with national law. The facilitating organization shares the community's draft bylaws with a lawyer or government official who reviews them to ensure that they do not contradict the national constitution and other relevant national laws.

- 3rd and Final Draft. The 2nd Draft is returned to the community, which then decides how best to modify any bylaws that contradict national law. Once all conflicts have been resolved, the by-laws are complete.

- Bylaws Adoption Ceremony. The community convenes a large, celebratory "by-laws adoption ceremony," and invites local and regional leaders, government officials, and neighbors to attend. At the meeting, the community reads out the bylaws, then votes to adopt them in the manner they have decided (often by consensus or supermajority vote). After the bylaws are adopted, it is helpful to have the local government sign and stamp them as evidence of government endorsement. If national laws require that a community-level "land governance body" is elected, the community may also choose to elect that body at the same meeting, directly after the bylaws have been adopted, according to the election process set out in their bylaws.

### **Conflict Resolution and experiences:**

Conflict usually has taken place over the natural resources especially community forestry in both the districts. Conflicts in community forestry in Kailali district are mainly related to the ownership of the community forestry which has basically resulted to the administrative, geographical and political boundary issues. These issues were in existence from a period of time. With the conversion of the VDC into Municipality, the conflict seems to have aggravated as the issues of boundary, sharing of benefit, rules and regulations between community forestry and municipality has further been confusing to the people. For instance the rules and regulation of the community forestry and municipality regarding the sharing of benefit do not match with each other.

The issues of conflict in Bardiya are also related to the community forestry. But the root cause of the conflict is the encroachment of the forestry areas by the squatter, freed labourer and the villagers themselves. A trend of grabbing the land by occupying the forest area and public land has developed in Bardiya as the proper rules and regulations were not implied to culprits.

The issue of the conflict relating to the distribution of the forest products in relation to the demand is seen in both the district. This issue has been mainly raised due to the lack of equitable distribution of the resources among all the users of the community forest. Similarly the issue of the Aailani land is also common in both the district. Lack of legal status of the Aailani land is creating a lot of problem in the life of the people. It raises legal complication while dealing with such issues. The impact of the conflict seems to be greater on the livelihood of the female than the males. As most of the females daily activities are based on the forest and its resources which are the major sources of conflict.

**Legal Education to CLRC:** Two days orientation programme on basic legal education was organized in Magaragadhi, Padnaha and Baniyabhaar VDC of Bardiya district. Orientation programme was focused on existing laws on land and natural resources. Participants of this orientations programme were paralegals and CLRC members. This training aims to sensitize the CLRC members on existing laws and policies and helped them to built basic insights on legal aspect of land and natural resources.

Trained CLRC members will facilitate communities during second by-laws draft to reflect more land related rules which are provisioned in our national system.

Land related sections from Land act, Land revenue act, forest act, environment act and land use policy 2072 were highlighted in the programme. Total 177 (100 male and 77 female) CLRC members attended this orientation training.

Positive reactions from participants were noted during programme. As training became more interactive, motivating those to talk more about laws and policies. They were much more elated to discover the legal provisions which they weren't aware before.

At preliminary phase 10 conflicts have been identified for resolution. As reported conflicts are of same nature so orientation process will focus only on 6 major conflicts. The main aim of this orientation is to capacitate local communities so that they can use learned knowledge to resolve similar conflicts even CLR phases out.

Following steps are followed in conflict transformation process;

#### **i. Preparation Meeting**

This is a first step of conflict transformation. Resource persons are self-prepared before facing conflict parties. It also includes preparation of who will go for transformation, how to go and how to start talk with conflicting parties. After preparation meeting, resource person mapped out the conflict. In addition to this, before entering in to the conflict case it is necessary to have discussion among local level government and non government authorities, political party representatives, elites of village and other concerned bodies regarding the conflict case and to aware them on conflict transformation process. If they accept the process and willing to transform the conflict, then it creates supporting environment in forthcoming stages of conflict Transformation Process.

#### **ii. Conflict Mapping**

This is a basic step of conflict transformation. The main objective of this step is to clearly understand the conflict from each and every aspect. It focus on who are the associated parties, what is the issue of conflict and how conflict escalated, what measures done in past to resolve the conflict, what happen after the measure, how they think to transform etc.

### **iii. First Meeting with Conflict Parties**

Separate meetings are organized with conflict parties at different times to know past resolution practices and their perception regarding conflict. The impartial, transparent and participatory procedure is carried out for the conduction of separate meetings. Similar group meetings are organized with both parties.

### **iv. Spider Group (Conflict Transformation Facilitators) Formation**

Spider team “Kwati Group” has been formed in the participation of all conflicting party’s representatives who are, dedicated, impartial, trustworthy and social hearted people who could spare time for the community. These create suitable environment for talk as well as discussion with conflict parties and also play facilitators role in conflict transformation process.

### **v. Spider Group Preparation for process**

After the selection of spider group members, they are mobilized only after their capacity building regarding their roles and responsibilities throughout natural resource conflict transformation process.

### **vi. Gather Perspectives**

Different perspectives of conflicting parties on process proposal, issues and alternatives are gathered through systematic procedure. Then process proposal has been designed incorporating gathered perspectives of conflicting parties. Based on the new process of conflict transformation, different meetings and separate group discussions are regularly conducted with the facilitation of spider group.

### **vii. Reflection/Process Proposal Design**

After the perspectives collection, spider group review these perspectives and develop draft note of process proposal, Common Issue and Common Alternatives. The main goal of this step is to incorporate different views for preparation of generally accepted common process. This prepared draft has been again taken to all parties for consultation.

### **viii. Consult and Agree to Process Proposal**

In course of time, process proposal design has been approved in consensus through meeting with the representatives of conflicting and related parties. Both parties enthusiastically supported for steady transformation of conflict. People who couldn’t stand each other for a minute, start to sit in the same table for discussion. The consultation has been done for all there major steps, process proposal draft, common issue draft and common alternatives draft.

### **ix. Joint Meeting**

Joint meetings are organized among all conflicting parties to reflect the consent agreed between spiders and their representatives. All these approved process proposal, common issue and alternatives are effectively regulated through this public consent. In this way, various issues of both parties are settled down by joint meeting.

### **x. Consensus/Agreement and Way Forward**

After the agreement among conflicting parties, the implementation of agreed points another step of conflict transformation process. If all the agreed points are successfully implemented, then we say it fully transformed. The conflict ongoing from ages marched towards the path of transformation. It will cast new rays of hopes in their lives. Most importantly peace will be developed in the societies.

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# Philosophy Of Peace

By Iram Majid

*Lawyer/Mediator /Arbitrator  
Supreme court of India,  
BIMS Regional director (India)*

PEACE IS NOT ABSENCE OF CONFLICT, IT IS THE ABILITY TO HANDLE CONFLICT BY PEACEFUL MEANS. PEACE CANNOT BE KEPT BY FORCE IT CAN ONLY BE ACHIEVED BY UNDERSTANDING

## Origin of the term peace

The term-'peace' originates most recently from the Anglo-French *pes*, and the Old French *pais*, meaning "peace, reconciliation, silence, agreement" (11th century). But, *Pes* itself comes from the Latin *pax*, meaning "peace, compact, agreement, treaty of peace, tranquility, absence of hostility, harmony." The English word came into use in various personal greetings from c.1300 as a translation of the Hebrew word *shalom*, which, according to Jewish theology, comes from a Hebrew verb meaning 'to be complete, whole'. Although 'peace' is the usual translation, however, it is an incomplete one, because 'shalom,' which is also cognate with the Arabic *salaam*, has multiple other meanings in addition to peace, including justice, good health, safety, well-being, prosperity, equity, security, good fortune, and friendliness, as well as simply the greetings, "hello" and "goodbye". At a personal level, peaceful behaviours are kind, considerate, respectful, just, and tolerant of others' beliefs and behaviours — tending to manifest goodwill.

This latter understanding of peace can also pertain to an individual's introspective sense or concept of her/himself, as in being "at peace" in one's own mind, as found in European references from c.1200.

## Concept of Peace

Peace is the concept of harmony and the absence of hostility. In a behavioural sense, peace is a lack of conflict and freedom from fear of violence between individuals and heterogeneous social groups. Throughout history some of the most extraordinary and benevolent leaders have used peace talks to establish a certain type of behavioural restraint that has resulted in the establishment of regional peace or economic growth through various forms of agreements or peace treaties. Such behavioural restraint has often resulted in de-escalation of rhetorical and physical conflicts, greater economic interactivity, and consequently substantial prosperity. The avoidance of war or violent hostility can be the result of thoughtful active listening and communication that enables greater genuine mutual understanding and therefore compromise.

"Psychological peace" (such as a peaceful thinking and emotions) is perhaps less well defined yet often a necessary precursor to establishing "behavioural peace." Peaceful behaviour sometimes results from a "peaceful inner disposition." Some have expressed the belief that peace can be initiated with a certain quality of inner tranquility that does not depend upon the uncertainties of daily life for its existence. The acquisition of such a "peaceful internal disposition" for oneself and others can contribute to resolving of otherwise seemingly irreconcilable competing interests.

Because psychological peace can be important to Behavioural peace, leaders sometimes de-escalate conflicts through compliments and generosity. Small gestures of rhetorical and actual generosity have been shown in psychological research to often result in larger levels of reciprocal generosity (and even virtuous circles of generosity).

### **Religion and Peace Building**

Religion and peace building refer to study of religion's role in the development of peace.

Nathan C. Funk and Christina J. Woolner categorize these approaches into three models. The first is "peace through religion alone". This proposes to attain world peace through devotion to a given religion. Opponents claim that advocates generally want to attain peace through their particular religion only and have little tolerance of other ideologies. The second model, a response to the first, is "peace without religion". Critics claim that it is overly simplistic and fails to address other causes of conflict as well as the peace potential of religion. It is also said that this model excludes the many contributions of religious people in the development of peace. Another critique claims that both approaches require bringing everyone into their own ideology.

The third and final approach is known as "peace with religion". This approach focuses on the importance of coexistence and interfaith dialogue. Gerrie ter Haar suggests that religion is neither inherently good nor bad for peace, and that its influence is undeniable. Peace with religion, then, emphasises promoting the common principles present in every major religion.

### **Christianity**

Christians, who believe Jesus of Nazareth to be the Jewish Messiah called Christ (meaning Anointed One), interpret Isaiah 9:6 as a messianic prophecy of Jesus in which he is called the "Prince of Peace." In the Gospel of Luke, Zechariah celebrates his son John: And you, child, will be called prophet of the Most High, for you will go before the Lord to prepare his ways, to give his people knowledge of salvation through the forgiveness of their sins, because of the tender mercy of our God by which the daybreak from on high will visit us to shine on those who sit in darkness and death's shadow, to guide our feet into the path of peace.

### **Islam**

Islam derived from the root word salam which literally means peace. Muslims are called followers of Islam. Quran clearly stated "Those who have believed and whose hearts are assured by the remembrance of Allah. Unquestionably, by the remembrance of Allah, hearts are assured" and stated "O you who have believed, when you are told, "Space yourselves" in assemblies, then make space; Allah will make space for you. And when you are told, "Arise," then arise; Allah will raise those who have believed among you and those who were given knowledge, by degrees. And Allah is Acquainted with what you do."

Many Religions and religious leaders have expressed a desire for an end to violence.

#### **'Baha'I Faith .**

The main of the Baha'I faith is the establishment of the unity of people of the world. Bahauallah the founder of Baha'I faith stated that :

*'The fundamental purpose animating the faith of God and his religions to safeguard the interests and promote the unity of human race.'*

In his writings Bahauallah described two stages of world peace – a lesser peace and most great peace. The ‘lesser peace is eventually a collective security arrangement between the nations of the world. In this nations agree to protect one another by rising up against a aggressive nation. Where as ‘the most great peace’ is the eventual end goal of the lesser peace and is envisioned as a time of spiritual and society unity – a time when the people of the world genuinely identify with care of one another, rather than simply tolerating one others existence.

Similarly in Buddhism Buddhists believe that world peace can be achieved if we first establish peace within our minds. They believe people can live in peace and harmony only if we abandon negative emotions such as anger in our minds and cultivate positive emotions. Such as love and compassion.

## **Hinduism**

Hindu texts contain the following passages:

May there be peace in the heavens, peace in the atmosphere, peace on the earth. Let there be coolness in the water, healing in the herbs and peace radiating from the trees. Let there be harmony in the planets and in the stars, and perfection in eternal knowledge. May everything in the universe be at peace. Let peace pervade everywhere, at all times. May I experience that peace within my own heart.

— Yajur Veda 36.17)

Let us not concord with our own people, and concord with people who are strangers to us. Celestial Twins, create between us and the strangers a unity of hearts. May we unite in our minds, unite in our purposes, and not fight against the heavenly spirit within us. Let not the battle-cry rise amidst many slain, nor the arrows of the war-god fall with the break of day

— Yajur Veda 7.52

A superior being does not render evil for evil. This is a maxim one should observe... One should never harm the wicked or the good or even animals meriting death. A noble soul will exercise compassion even towards those who enjoy injuring others or cruel deeds... Who is without fault?

— Valmiki, Ramayana

The chariot that leads to victory is of another kind.

Valour and fortitude are its wheels;

Truthfulness and virtuous conduct are its banner;

Strength, discretion, self-restraint and benevolence are its four horses,

Harnessed with the cords of forgiveness, compassion and equanimity...

Whoever has this righteous chariot, has no enemy to conquer anywhere.

— Valmiki, Ramayana

And the last not the least in Sikhism Peace comes from God. Meditation the means of communicating with God is without performing good deeds. Sikhs believe that no matter what race, sex or religion, one is all are equal in God’s eyes . Men and women are equal and share the same rights. As with all religions non-violence is the central concept.

So, the crux is that Peace is the concept of the harmony and the absence of hostility. In behavioural sense peace is a lack of conflict and freedom from fear of Violence between individuals and heterogeneous social groups. In all religions say Hinduism, Jainism, Buddhism, Islam and Sikhism, AHIMSA (avoidance of violence) is a control concept.



## **what is, and might be Peace ?**

Peace is when people are able to resolve their conflicts without violence and can work together to improve the quality of their lives.

If we begin with the need to survive, we immediately see that peace is a primary requirement of the human condition itself. Non-violence is a weapon of the strong. . . . The law of love will work, just as the law of gravitation will work, whether we accept it or not. . . . The more I work at this law the more I feel the delight in life, the delight in the scheme of the universe. It gives me a peace and a meaning of the mysteries of nature that I have no power to describe.

Perhaps 'peace' is like 'happiness', 'justice', 'health' and other human ideals, something every person and culture claims to desire and venerate, but which few if any achieve, at least on an enduring basis. Why are peace, justice and happiness so desirable, but also so intangible and elusive? But perhaps peace is different from happiness, since it seems to require social harmony and political enfranchisement, whereas happiness appears, at least in Western culture, to be largely an individual matter. Alternatively, perhaps peace does indeed resemble individual happiness – always there, implicit in our psychological make-up and intermittently explicit in our social behaviour and cultural norms. Peace is a pre-condition for our emotional well-being, but a peaceful state of mind is subject to cognitive disruptions and aggressive eruptions. Peace is a linchpin of social harmony, economic equity and political justice, but peace is also constantly ruptured by wars and other forms of violent conflict. Like happiness, peace remains so near . . . and yet, like enduring love, so far..

## **Theory of peace ;**

### **Negative peace and positive peace**

The basic point is that peace is a relation, between two or more parties. The parties may be inside a person, a state or nation, a region or civilization, pulling in different directions. Peace is not a property of one party alone, but a property of the relation between parties. Saying that in no sense belittles the significance of the party's intent and capability to build peaceful relations. But, like a marriage, it is not the sum of the capabilities of the parties. Which is why we can have lovely people related in a less than-lovely marriage. And vice versa.

From this follow two concepts of peace:

**NEGATIVE PEACE:** the absence of violence, like a cease-fire, like keeping them apart, not negative but indifferent relations.

**POSITIVE PEACE:** the presence of harmony, intended or not. They are as different as negative health, the absence of (symptoms of) illness and positive health, the feeling of wellness and the capacity to handle some illness.

From this, then, follow three types of peace studies:

**NEGATIVE PEACE STUDIES:** how to reduce-eliminate negative relations.

**POSITIVE PEACE STUDIES:** how to build ever more harmonious relations.

**VIOLENCE-WAR-ARMS STUDIES:** the intent and capability to inflict harm.

The third, very frequently found, may be useful, but only when coupled with studies of the intent and capability to build harmony. One approach to negative peace studies opens for **PEACE AND CONFLICT STUDIES**, seeing violence-war as the smoke signals from the underlying fire of a conflict. And that leads to a major approach to negative peace: remove the conflict, by solving it or, more modestly, by transforming it so that the parties can handle it in a non-violent way, with empathy for each other, and with creativity.

**MONJURUL AHSAN BULBUL****Editor-in-Chief & Chief Executive Officer- CEO  
EKUSHEY Television**

Born in Bangladesh and raised in different parts of the country and abroad, Monjurul Ahsan Bulbul was accepted as a member of journalist team of a regional daily newspaper at Mymensingh in his student life and went on to become the News Editor of that daily in 1986.

In 1987 he went on work with the oldest, respected and reputed daily of the country The Sangbad. Where he worked as sub-editor, senior sub-editor, National Desk Editor, Chief sub-editor and finally News Editor. He left Sangbad in 2000 and joined as the founder News Editor of the Daily Jugantor. He took the challenge to establish this new daily. As a leader of more than 200-member journalist's team, he succeeded and daily Jugantor is now one of the largest circulated daily newspapers of the country.

He left daily Jugantor 2001 to undertake another challenge and joined as the Chief news Editor, CNE of the country's first private terrestrial television, Ekushey Television-ETV.

**MONJURUL AHSAN BULBUL**

Besides his routine duty as Chief News Editor in Ekushey Television, he was a regular presenter for Ajker Patrikay (Today's newspaper) and talk show SAMPROTIK (topical events), presenter for Eai Saptaher Bisshwa (World this week). During 2001 National election he present the LIVE programme JATI JANTE CHAI (Nation wants to Know) from different part of the country and was a co-presenter for the 48 hour LIVE broadcast of the election result JONOTAR RAI (Peoples Verdict). All this program is in first time in Bangladesh, and set the trend which now followed by other television channel. After ETV Closed down he joined Daily Sangbad as Executive Editor and simultaneously performs his duty as Head of News & Current Affairs-NCA

of ATN Bangla – countries first satellite television channel. In ATN Bangla he is anchoring the country's most popular live talk show MEET THE PRESS and MUKTO SANGLAP. In ATN Bangla He also holds the position of Senior Vice President of the Company. He successfully manages ATN Bangla during the different scenario after 1/11. He design, plan and implement the coverage of all City Corporation election and National Election in 2008. He anchored a 24 hours LIVE programme during Election Day.

He is a Jefferson Fellow/ Fall-2003 of East West Center, Hawaii, USA and as Asia Foundation Fellow Participated in Media Program in the Fletcher School of Law and Diplomacy, Tufts University, Boston, MA, USA. He took part in International Visitors Leadership Program- IVLP of the state department of the US federal Government.

Participated advance course on journalism and democracy in FOJO- University of Kalmar, Sweden, International Institute of Journalism, Berlin-Germany and different courses on journalism and broadcasting run by the Commonwealth Press Union-CPU, Commonwealth Broadcasting Association-CBA, Thomson Foundation, UK, APTN/UKHong Kong, American center Dhaka-Dhaka. Press Institute of Bangladesh-PIB, National Institute for Mass Communication-NIMCO.

More than 28 years' experience in practical, grassroots, people oriented journalism and communication programs in Bangladesh. This experience has been as an analyst, professional journalist, volunteers, trainer and organizer of investigative and development journalistic program. An active campaigner of freedom of expression in national and international field. His Work experience has all been in the field and decision-making level in print and electronic media, education and training of journalist, media activists. Experienced in the project and assignment formulation, monitoring and evaluation.

He is widely accepted as a moderate intellectual in the journalist and media community home and abroad, Government, political parties, cultural activists and civil society of the country.

He was awarded several honors for his sincere commitment to his profession.

#### **VITAL STATISTICS**

1. Father's Name: Late Dr.Amjad Hossain Talukder.
- 2 Mother's Name: Begum Rowshan Ara.
3. Birth date: 30 November1959  
Born at Nalitabari, Sherpur.
4. Nationality: Bangladeshi by birth.
5. Marital Status: Married.
6. Dependents: Wife and two Children.
7. Permanent Address: vill: Ambagan Post: Nalitabari  
Dist: Sherpur, Bangladesh.
8. Preferred filed of work: Media and Communication.
11. Hobby: Reading, writing and listening.

#### **EDUCATION**

\* After SSC from Taragonj High School (Nalitabari, Sherpur) admitted to Ananda Mohon College. Passed HSC, BA (Hons. In Bangla language & literature) and MA from this college under Dhaka university. Scored 2nd class and place 6th position in the merit list in BA, Hons. And 7th place in MA. Completed Graduation in Law, LLB from Mymensingh Law College under Dhaka University.

- Diploma in Journalism. 1984. International Institute of Journalism-IIJB, Berlin, Germany.
- Graduation in Law, LLB. 1984, University of Dhaka.
- Masters of Arts, MA. 1982, University of Dhaka.
- Bachelor of Arts, BA with Honors. 1981, University of Dhaka.
- Higher Secondary School certificate, HSC. 1978, Dhaka Board.
- Secondary School Certificate, SSC. 1975, Dhaka Board.

## **TRAINING & COURSES ATTENDED**

- Television Best Practices-2008  
Commonwealth Broadcasting Association, CBA, UK
- Jefferson Fellow, Fall-2003, East West Centre, Hawaii, USA.
- International Programme on Journalism and Democracy. 1997. Institute for Further Education of Journalists- FOJO. Kalmar University. Kalmar, Sweden.
- Workshop on Advanced Reporting. 1997. The Thomson Foundation, UK & the British Council, Dhaka.
- Advanced training course for senior journalists. 1994. Commonwealth Press Union, CPU and Press Institute of Bangladesh. PIB.
- Summer Media program on Law & Diplomacy, 1993 Fletcher School of Law & Diplomacy, TUFTS University, Boston, Massachusetts's.
- Training for National Desk Editor. 1992 Press Institute of Bangladesh, PIB.
- Programme Presenter's course in Radio and in TV.1989. National Institute for Mass Communication, NIMCO.
- Word Processing & Database Management.1988. National Institute for Mass Communication, NIMCO.
- Research Methodology Course.1988 Asiatic Society of Bangladesh.
- Television and Radio News Readers Course, 1985. National Institute for Mass Communication, NIMCO.
- Workshop on population Information Network.1983. Government of Bangladesh.
- Training on effective Supervisory Management, TRACK

## **Special Mention:**

- Chairman of Jury board, UNESCO/Guillermo Cano World Press Freedom Prize, nominated by UNESCO Director General-2013. Member of the Jury for three years.
- Participated International Visitors Leadership Program (IVLP) of the State Department of the US government in 2006. This program is to understand US Government, its organs, Media and its role in the US society and politics.
- Participated International Visitors Leadership Program (IVLP) of the State Department of the US government in 2018. Second time.
- Jefferson Fellow, Fall-2003, East West Centre, Hawaii, USA.
- Fellow Asia Foundation: Summer Media program on Law & Diplomacy, 1993 Fletcher School of Law & Diplomacy. TUFTS University, Boston, Massachusetts's.
- Represent Bangladesh to International Conference on Climate Change and Global Broadcast Media, first of this kind. organized by UNESCO, held in Paris.
- Elected as Vice Chair of the executive Board of International Press Institute, IPIVienna.
- Elected as a Member of the SENATE of the University of Dhaka for three times, scoring highest vote.
- Council Member. two term , [www.ifex.org](http://www.ifex.org)

## **WORK EXPERIENCE:**

Started career as reporter in Weekly Banglar Darpan in Mymensingh, and then it followed up to the News Editor of the daily Jahan. Shifted to Dhaka as junior sub-editor of the daily SANGBAD, promoted as senior sub-editor. National desk Editor, Chief subeditor and finally News editor. After 13 years serving in the daily SANGBAD decided to change the work place and joined as the first News editor of the Daily Jugantor. After two years, decided to switchover from print media to electronic media and finally joined to the Bangladesh's first terrestrial private TV channel- Ekushey Television as Chief News Editor.

- 2010-2015: Editor-in-Chief & CEO, BOISHAKHI Television.
- 2015-2015 : Editor-in-Chief; ATN Bangla
- 2003-2010: Head, News & Current Affairs – NCA, ATN Bangla, First Private Satellite TV Channel of Bangladesh
- 2004 - 2010: Executive Editor: The Daily SANGBAD
- 2001-2003: CHIEF NEWS EDITOR: Ekushey Television. Ekushey Television is the first private terrestrial TV channel of the country
- 1999-2001: NEWS EDITOR: The Daily JUGANTOR.
- 1986-1999: NEWS EDITOR: DAILY SANGBAD.
- 1976-1986: NEWS EDITOR: Daily JAHAN.

#### **PRESENT POSITION**

Editor-in-Chief & CEO, Ekushey Television.

#### **OTHER EXPERIENCES:**

\* From student life was involved multidimensional extracurricular activities. It followed until present stage of life. Involved with Chara Sangsad, General Secretary of the Muktabatayan Patha Chakra, and Lekhok Forum, UDICHI Shilpi Ghosti, and Joint secretary of Mymensingh Shilpokala Academy, Founder General Secretary of Mymensingh Union of Journalist-MUJ, and Former Joint Secretary of Mymensingh Press Club etc. Regular contributor of different newspapers and periodicals.

#### **Following is the narration of some present and previous involvement.**

- Vice Chair, Executive Board – International Press Institute, IPI ( 2012-2015)
- Member, Executive Board – International Press Institute, IPI ( 2009-2017)
- Member, Jury Board, UNESCO UNESCO/Guillermo Cano World Press Freedom Prize 2009-2013.
- Chair, Jury Board, UNESCO UNESCO/Guillermo Cano World Press Freedom Prize, 2013.
- Member, Governing Body, Ahsania Mission Cancer and General Hospital.
- Senator, Dhaka University Senate, 2009-2012, scoring highest vote in election.
- Member, Board of Governor's – BOG, Bangladesh Open University, 2009- 2011.
- Member, Board of Directors, Press Institute of Bangladesh PIB.( 1997 – 2001, 2009- 2011, 2012 – till date )
- Member, Bangladesh Press Council, 2012- till date.
- Chairman: MEDIA WATCH- a Bangladesh based media freedom and media monitoring organization.
- Member - National Commission for UNESCO, Bangladesh- 2008 till date.
- Member- Journalists Accreditation Committee of Ministry of Information, GOB.
- Member – Appellate committee of BTV for Package Program screening.
- Member- National monitoring committee on wage board implementation for journalists.
- Member- National Monitoring Committee of Publication and distribution of text Book.
- NCTB, Ministry of Education, GOV.
- Chairman, Woman Watch - an organization devoted for development of the small and medium women entrepreneurs of the country.
- Chairman of the Advisory Board, PROKIRTI FOUNDATION- a foundation for media development.
- Member- East West Centre Alumni, Hawaii, USA.
- Life Member- Dhaka University Alumni Association-Dhaka.
- Member, National press club
- Life Member: Mymensingh Press club.

- Life Member: Trishal Press Club, Mymensingh.
- Trainer: Journalists Foundation Training Programme. Work with Press Institute of Bangladesh, PIB. National Institute for Mass Communication-NIMCO. Bangladesh.
- Center for Development and Journalism, Communication-BCDJC. Bangladesh Manobadhikar Bastobayon Sangstha and Mass Line Media Centre-MMC.
- Part-time Teacher, Department of Journalism & Mass Communication, Dhaka University.
- Council member International Federation of Freedom of Expression Exchange, IFEX Council (2001-2004), a Canada based international network that links freedom of expression groups around the world.
- Former Member 7th wage board award committee for Journalists and media workers.
- Member : 9th wage board award committee for Journalists and media workers.
- President- Bangladesh Federal Union of Journalists-BFUJ. [ Third term ]
- Former Secretary General: Bangladesh Federal Union of Journalists, BFUJ.
- Former Treasurer, Bangladesh Federal union of Journalist, BFUJ.
- Immediate Past, Senior Vice President, National Press Club.
- Former Member, Selection Committee of the national grant ( from government) for filmmaking.
- Former Member, Foreign Programme Preview Committee of the Bangladesh Television- BTV.
- Former Resident Editor for Bangladesh : Weekly Kagoj- A Bangla weekly published from New York City, USA.
- Former Resident Editor for Bangladesh : Weekly AYNNA - A Bangla weekly published from New York City, USA.

#### **Honor:**

- Awarded CERTIFICATE OF MERIT by the Foreign Correspondent Club of Japan-FCCJ 1990.
- Awarded Mymensingh Press Club Peak for contribution in Journalism 1999.
- Awarded RISIZ Padak for contribution in journalism 2003.
- Awarded Evergreen Award for Innovative Journalism, 2004.
- Awarded Reception of honor by Amra Surjomukhi, 2004
- Awarded Greater Mymensingh Forum Padak, 2006.
- Awarded Chandraboti Gold Medal, 2007.
- Awarded Annonda Sankar Gold Medal, Kolkata, 2008.

#### **Professional Activities :**

In Ekushey Television, regular presenter for Ajker Patrikay and SAMPROTIK. Previously presenter for Eai Saptaher Bisshwa. During last election present the LIVE programme JATI JANTE CHAI from different part of the country and was a copresenter for the LIVE broad cast of the election result JONOTAR RAI. During long professional life interviewed many personalities like JIMMY CARTER- former US president, HE Dr. Mahathir Mohammad- Former Prime Minister of Malaysia, Mother TERESA, Sheikh Hasina Begum Khaleda Zia, HM Ershad, Dr. Younus.

#### **TRAVEL:**

Visited United States of America (Washington DC, New York, Boston, California, Iowa, Oregon, Florida), United Kingdom, France, Germany, Switzerland, Belgium, Poland, Serbia, Norway, Sweden, Finland, Austria, Denmark, Slovakia, The Netherlands China, Taiwan, South Korea, Vietnam, Thailand, Myanmar, Malaysia, South Africa, Zimbabwe, Tunisia, , Ghana; India, Nepal, Pakistan, Bhutan, Srilanka, Jordan, Qatar, Saudi Arabia, UAE – Abu Dhabi & DUBAI, Lebanon, Trinidad & Tobago, Peru, Costa Rica,. In all occasion the visit was made for participation in different conferences, seminar and courses.

# ADR as an individual law course?

**By Aiman R. Khan,**

*Accredited Mediator (BIMS), Apprentice Advocate at Dhaka Judge Court*

Resolution of cases or disputes by way of negotiation, mediation and arbitration – and variations on these themes – is becoming popular day by day in Bangladesh. This increases the need for education on Alternative Dispute Resolution (ADR) in the country.

Making students familiar to this subject would increase awareness of ADR and to facilitate the development of ADR skills within the law school community. Alternative Dispute Resolution (ADR) is assumed to be in practice from the date unmemorable in this part of the world.

In the absence of any historical evidence it is difficult to specify the period during which mediation of disputes started among the people of this region. ADR is central to legal practice and should be taught to law students in order to prepare them for that practice.

The need to integrate has long been argued by well-known practitioners and theorists in ADR. The need to include ADR in the legal curriculum has long been recognized and many commentators have advocated for law schools to systematically include the range of non-curial options, particularly negotiation, in the education of law students.

Riskin and Westbrook argued for integration where ADR options are taught as part of substantive law subjects and obtained various grants to introduce this pedagogical approach in a range of United States law programs. More recently, advocates for the integrated approach still argue strongly that first year law programs should integrate ADR into their teaching.

10 Reasons why ADR must be a mandatory subject in the law degree:

- As more and more corporate bodies are resorting to ADR, there is still a shortage of Arbitrators or Mediators in Bangladesh.
- More ADR practitioners are needed to due to the backlog of cases in the courts.
- Current teaching does not reflect legal practice.
- Participation in ADR processes are mandatory under certain legislation.
- Legal practitioners have a duty to advise clients about ADR processes.
- ADR instruction allows students to appreciate the importance of emotion (and emotional intelligence) in the resolution of disputes
- Lawyers need to understand about the nature and theory of conflict.
- Teaching ADR supports law student psychological well-being
- ADR instruction can help students to develop a positive professional identity.
- Law students are demanding ADR knowledge and skills

Currently, there are a few law schools in Bangladesh which has ADR as a course module. The subject is mostly taught in the first semester of a 4 year Honors programme. By the time a student graduates, he would

forget what he studied on his first days as a law student. What needs to be introduced is a standalone course which is longer in duration.

ADR as a Post Graduate Diploma or Master of Laws subject?

There are hundreds of Universities in the USA and Europe which provides ADR as an LLM subject. There are standalone majors for Diploma as well. Some of the reputed institutions in the USA are Harvard Law School Program on Negotiation, University of Colorado Law Mediation Program, University of Tennessee Law School Mediation and University of Texas School of Law Center for Public Policy Dispute Resolution etc.

In Europe, there is Stockholm University which provides an LLM on International Commercial Arbitration, King's College London provides an LLM on International Dispute Resolution.

Trainings and Workshops are helpful but inadequate due to their duration. A one day or a week is not enough for a student to get an in depth idea on ADR. A fairly longer time is needed to prepare professionals. Hence, Six months long Diplomas and one year specialized Masters Courses must be introduced in the law department of public and private universities.

A Post graduate diploma shall consist of all the methods of ADR as individual courses, while the LL.M would have two 6 month semesters. The first semester would give an overall idea of all the ADR methods and the last one would allow the student to pick one of the ADR methods as a major concentration.

Since there are very few specialized LLM programmes in Bangladesh, such a subject will surely grab attention of enthusiastic learners. The faculty may organize seminars, workshops and even mock arbitration or mediation sessions in order to give the students an idea of how the process works in real time.

Like many other countries, the legal system in Bangladesh is formal, complex, urban-based, time consuming and expensive. This leaves many Bangladeshis, especially the poor, illiterate or disadvantaged living in rural areas, unable to enforce their rights through the formal justice system.

This has encouraged lawyers to prefer ADR methods as a part of their profession. Non-adversarial practices allow lawyers to cast off the shackles of adversarial behaviour, providing them with an opportunity to reinvent themselves (and their image) as more caring and helpful.

Arbitration in Bangladesh is governed by the Arbitration Act, 2001. The National Board of Revenue (NBR) also introduced ADR in their Income Tax Alternative Dispute Resolution (Procedure) Rules, 2012.

Mediation under the Code of Civil Procedure 1908 is a flexible, informal, non-binding, confidential, non-adversarial and consensual dispute resolution process in which a third party mediator shall facilitate a compromise to parties' disputes. On the other hand, The Madaripur Model of Mediation by the Madaripur Legal Aid Association shows how community based mediation is in force in rural parts of the country.

The use of Arbitration is becoming increasingly popular in the urbanized part of the country. Many existing contracts demand arbitration. Agreeing to arbitrate disputes that may arise in broader contractual agreements is the primary route into the process. Hence, it is the demand of time that ADR education is enforced to prepare experts for the future.



# Mediation May Fruitful by Four Tricks

By **Dr. Rajib Kumar Goswami**  
*Advocate, Supreme Court of Bangladesh*

In Short **Mediation** is a dynamic, structured, interactive process where a neutral third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques. All participants in mediation are encouraged to actively participate in the process. Mediation is a "party-centered" process in that it is focused primarily upon the needs, rights, and interests of the parties. The mediator uses a wide variety of techniques to guide the process in a constructive direction and to help the parties find their optimal solution.

I think mediation process will be faster and cheaper than litigation and yield a better result. But the potential benefits of such alternative dispute resolution are often undermined by the participants entering the process with the same litigation-oriented, adversarial mindset they meant to leave behind. Here are four counterintuitive strategies that harness the strengths of mediation rather than treating it as litigation light. They may not be traditional, but properly employed, they work.

## **1. Let the other side pick the mediator.**

Mediation should be speedy, economical, and conciliatory. But parties often kick things off with a mediator-selection process that is complex, expensive, time consuming, and adversarial. Avoid this opening skirmish by letting the other side pick the mediator. This engenders cooperation, generates good will, speeds up the process, holds down costs, and introduces you to new mediators you might actually like. Reserve your right to reject someone with an actual conflict, but don't ding someone just because the other side believes the person is favorably disposed to them or their position. That can be an advantage. Such a mediator will have more credibility with your opponent than someone who is viewed as completely neutral or as tilting in your favor. And such a mediator, wanting to avoid any perception of bias, may bend over backward to be fair to your side.

Remember that a mediator is not a decision maker and cannot force you to accept a settlement you do not like, so there is little risk to accepting a mediator proposed by the other side, and much to be gained.

## **2. Don't argue about who is right.**

Well, not as much as you—or your counsel—want to, anyway. The goal of mediation is not to win an argument; it is to achieve a favorable settlement. Some substantive exchange is appropriate and even useful, but scoring substantive points is at most a tactic. Don't let it hijack the process. Usually by the time mediation occurs, the parties are quite familiar with the factual and legal issues and have had ample opportunity to assess the case. An excessive focus on vindicating arguments can harden positions, antagonize the other side, and divert attention from the goal of settlement. And it is expensive and time-consuming to boot. Get to a negotiation over dollars or the other key settlement terms as quickly as possible. There will be plenty of time to argue over substance later if the mediation fails.

## **3. Leave the litigators at home.**

By default, litigators tend to handle both litigation and settlement responsibilities. Often it is more effective to create a separate settlement or mediation track led by a lawyer who is not the public face of the litigation. The benefits: (a) Settlement counsel approach mediation with a clean slate, untainted by the adversarial atmosphere and even animosity that litigation creates. (b) Litigation and settlement require different mindsets. Having one person spearhead both may undercut his or her full engagement in either. Not everyone can switch gears so quickly. (c) Cases often settle on the courthouse steps. Separating litigation and settlement allows litigators to maintain pressure on the other side at crucial moments while settlement counsel can devote their total effort to mediation. Litigation and settlement are specialized skills. They call on different abilities and personal qualities and involve different mindsets. Litigants should spend at least as much time and effort selecting settlement counsel as they do selecting litigation counsel.

## **4. Deal with hard issues last.**

It always amazes me when a mediator says, "Let's get all the issues out on the table right up front." If your goal is to create as many impediments to settlement as possible, that is just the right approach. If your goal is to settle, you are generally far better off focusing on a key issue—usually money—first and leaving the other, sometimes harder issues for later. Once there is agreement on the key term, the parties will tend to feel that they have a deal and that the remaining terms will be worked out in due course. This approach creates momentum rather than impediments. I agree with Mr. Richard Shore that it is often wise to leave key issues, or at least their final contours, to the drafting phase of a written agreement. Deals often fall apart over key substantive issues, but they generally don't fall apart over drafting issues. So consider leaving hard issues until the end, and call them drafting issues.

## বাংলাদেশে মেডিয়েশন আন্দোলনের যাত্রা

মেহেদী হাসান ডালিম

সাংবাদিক ও অ্যাক্রিডিটেড মেডিয়েটর

শুরুটা এত সহজ ছিলনা। অনেক আইনজীবী বন্ধু নাক সিঁটকিয়ে বলেছেন, বাংলাদেশে মেডিয়েশন দিয়ে কিছু হবেনা। সেই ২০০৪ সাল থেকে চেষ্টা করে এসেছি। বারবার আঘাত এসেছে। তবে কখনও ভেঙ্গে পড়িনি। প্রথম থেকেই আমি দৃঢ় আত্মবিশ্বাসী ছিলাম। আমি সবসময় বিশ্বাস করে এসেছি বাংলাদেশের মত উন্নয়নশীল দেশে একমাত্র মেডিয়েশন পদ্ধতিই বিচারব্যবস্থায় মামলাজট নিরসনে ভূমিকা রাখতে পারে। সেই বিশ্বাস থেকেই মেডিয়েশন আন্দোলন। কথাগুলো বলছিলেন বাংলাদেশে মেডিয়েশন আন্দোলনের স্বপ্নদ্রষ্টা অ্যাডভোকেট সমরেন্দ্র নাথ গোস্বামী। যিনি আইনঅঙ্গনে এস এন গোস্বামী নামে পরিচিত।

মেডিয়েশন আন্দোলন শুরুর গল্প: প্রশ্ন জাগতে পারে মেডিয়েশনটা কি? আমরা জানি মামলায় জড়ানো থেকে জনগণকে নিবৃত্ত করা আর জনগণকে উদ্ধৃত্ত করা যাতে মামলার মধ্যে না জড়িয়ে পরে। সেটাই মেডিয়েশন। শান্তিপূর্ণ উপায়ে যেন নিজেদের মধ্যে সৃষ্ট বিরোধ নিরসন করতে পারে এবং ভবিষ্যতে যেন কোন বিরোধে না জড়ায়। শান্তিপূর্ণ উপায়ে বিরোধ মীমাংসায় উদ্ধৃত্তকরনই মেডিয়েশন। আর যিনি উদ্ধৃত্ত করেন তিনি হলেন মেডিয়েটর।



মেডিয়েশন সোসাইটির প্রতিষ্ঠাকালীন নির্বাহী কমিটির সভা

মেডিয়েশন আন্দোলন শুরুর প্রেক্ষাপট বর্ণনা করতে গিয়ে এস এন গোস্বামী বলেন, ১৯৭৪ সালে আমি যখন আইনপেশা শুরু করি তখন থেকেই আমি লক্ষ্য করলাম সাধারণ মানুষের কিছ্র মামলার প্রতি অনীহা। এই অনীহার কারণ হচ্ছে, মামলার ফলে শত্রুতা বৃদ্ধি পায়, সামাজিক দিক হতে অন্যর কাছে হয়ে প্রতিপন্ন হতে হয়, ছোট হতে হয়। এ কারণে সাধারণ মানুষ চায় না মামলা হোক। নিজেরা কোন মামলা করুক এটাও চায়না। কিছ্র বিভিন্ন কারণে যখন তারা মামলায় জড়িয়ে পরে। এ কারণে আমাদের দেশে দিনের পর দিন মামলাজট ছহু করে বেড়ে চলছে।

হাইকোর্ট বিভাগে প্র্যাকটিস করতে এসে যখন মামলাজট লক্ষ্য করি তখন বেশ কিছু দেশ ভ্রমণ করে দেখলাম ওই সমস্ত দেশে মামলাজট নিরসনে

মেডিয়েশনকে বেশি গুরুত্ব দেওয়া হয়েছে। ২০০৪ সালে ইউসিট্রায়ালে মডেল ল' যখন গ্রহণ করা হচ্ছে সেখানে আমি অঙ্গীকার করেছিলাম, বাংলাদেশে আমি চেষ্টা করবো এই মডেল ল' টাকে কার্যকর করতে। মডেল ল' টা কি? মডেল ল' হচ্ছে বিশ্বব্যাপী একটা সিস্টেমের মধ্যে দিয়ে মামলাজট কমানোর পন্থা। শুধু মামলার জট বন্ধ করা না সেই সঙ্গে মামলার যে উৎস স্থল মানুষের মন সেটাকে পরিবর্তনের চেষ্টা করা। আমরা জনগণকে বোঝাবো নিজেরা সহজে কোন মামলায় যাব না এবং অন্যকে উদ্ধৃত্ত করবো মামলাতে যাতে কেউ না আসে। তাহলে সাধারণত মামলার উৎসস্থল বন্ধ হতে পারে। ভয় দেখিয়ে মামলা থেকে জনগণকে নিবৃত্ত করা যাবে না। সামাজিক ভাবে জনগণকে বোঝানো, দুটো বিরোধী পার্টিকে একত্রে বসিয়ে সামাজিক ভাবে শান্তি প্রক্রিয়ার মধ্যে নিজেদের বিরোধ নিজেরাই মিটমাট করতে পারে। সেটা জমি হতে পারে, ফ্যামিলি ডিসপুট হতে পারে। অর্থনৈতিক ডিসপুট হতে পারে। নিজের জীবনে এধরণের কাজ করে যখন সফল হয়েছি তখন কিছু আইনজীবী বন্ধুদের কাছে আলোচনা করলাম যে সেই মডেল ল'টাকে নিয়ে আমরা প্রসিট করতে পারি কি না। সেখানে বারবার আঘাত এসেছে, অনেকে নাক সিঁটকায়েছেন। অনেক আইনজীবী বন্ধু বলেছেন মেডিয়েশন দিয়ে কোন কাজ হবে না।

অনেক বাঁধা এসেছে। কিন্তু সেই আগে থেকেই আমার দৃঢ় বিশ্বাস বাংলাদেশের মত উন্নয়নশীল দেশে একমাত্র মেডিয়েশন পদ্ধতিই বিচারব্যবস্থায় মামলাজট নিরসনে ভূমিকা রাখতে পারে। এর জন্য প্রয়োজন ভাল মেডিয়েটর। ভাল মেডিয়েটর তৈরির আকাঙ্ক্ষা থেকেই মেডিয়েশন আন্দোলনের যাত্রা। আমি মনে করি একজন ভাল মেডিয়েটর তাদের দ্বারা মেডিয়েশন আন্দোলন সফল হতে পারে। ২০০৪ সাল থেকে মেডিয়েশন আন্দোলনের সাথে জনগণকে সম্পৃক্ত করা, জনগণের মধ্যে একটা সচেতনতা সৃষ্টি করার জন্য বাংলাদেশ ল' জার্নাল পত্রিকায় এবং বিভিন্ন বিশ্ববিদ্যালয় কলেজগুলোতে টিচার/ছাত্রদের একত্রিত করে মেডিয়েশন সম্পর্কে আলোচনা করা হয়েছে। মেডিয়েশন নিয়ে জনগণের সাথে মত বিনিময়, কিছু বিজ্ঞ আইনজীবীর মতামতও গ্রহণ করি। আলোচনার পর সবাই এটা স্বীকার করেছে যে একমাত্র মেডিয়েশনই বাংলাদেশে মামলার জট কমাতে পারে। বাংলাদেশকে শান্তি প্রিয় দেশ হিসেবে গড়তে অবদান রাখতে পারে। দেশের মানুষের প্রতি দায়িত্ববোধ থেকেই প্রথম ২০১৬ সালে কিছু আইনজীবী বন্ধুদের নিয়ে মেডিয়েশন সোসাইটি শুরু করতে গিয়ে হোটেল খায়। কিন্তু আমি থেমে থাকিনি, ভেঙ্গে পরিনি আমার লক্ষ্য ছিল অটুট। পরে ২০১৭ সালের ৩১ মে মেডিয়েশন সোসাইটির আনুষ্ঠানিক শুরু করতে সক্ষম হই।



হোটেল পূর্বানীতে প্রথম আন্তর্জাতিক মেডিয়েশন সম্মেলন

মেডিয়েশন সোসাইটির আত্মপ্রকাশ : সকল জল্পনা-কল্পনার অবসান ঘটিয়ে ২০১৭ সালে ৩১ মে আনুষ্ঠানিক ভাবে আত্মপ্রকাশ করে বাংলাদেশ ইন্টারন্যাশনাল মেডিয়েশন সোসাইটি (বিমস)। সেদিন থেকেই একটি স্বপ্নের যাত্রা শুরু হয়। বিচারপতি দেলোয়ার হোসেন ও অ্যাডভোকেট এস এন গোস্বামীর প্রতিষ্ঠাকালীন কমিটিতে কিছু উদ্যমী আইনজীবীকে রাখা হয়। প্রতিষ্ঠার পর থেকে সাপ্তাহিক-মাসিক বিভিন্ন কর্মশালা-সিম্পোজিয়ামের মাধ্যমে বিমসের নির্বাহী কমিটির সদস্যদের ও এর সাথে সম্পৃক্তদের দক্ষ হিসেবে গড়ে তোলার কাজ অব্যাহত থাকে। এক পর্যায়ে সংগঠনকে আরো গতিশীল করার জন্য অ্যাডভোকেট এস এন গোস্বামীকে বিমসের সভাপতি ঘোষণা করা হয়। কাজ এগিয়ে যেতে থাকে।

২০১৭ সালের রাজধানীর হোটেল সোনারগাঁওয়ে আয়োজন করা হয় বিশেষ প্রশিক্ষণ কর্মশালার। প্রথম বিশেষ কর্মশালাতেই চার্টার্ড ইনস্টিটিউট অব আরবিট্রেটর্স (ইউকে)'র কোর্স ডিরেক্টর মি: ইনবাজান, চার্টার্ড ইনস্টিটিউট অব আরবিট্রেটর্স ইউকের প্রশিক্ষক আনাতুল ম্যারাথিয়া, আন্তর্জাতিক মেডিয়েটর কে এস শর্মা প্রশিক্ষক হিসেবে উপস্থিত থেকে সবার নজর কাড়েন। প্রশিক্ষণ শেষে ২৮ জন ডেলিগেট কে তুলে দেওয়া হয় 'অ্যাক্রিডিটেড মেডিয়েটর' সনদ। ধারাবাহিক ভাবে হোটেল পূর্বানীতে আরো দুইটি বিশেষ প্রশিক্ষণ কর্মশালার আয়োজন করা হয়। এসব প্রশিক্ষণ শেষে আরো ৫০ জনের মত আইনজীবী লাভ করেন 'অ্যাক্রিডিটেড মেডিয়েটর' সনদ। আইনজীবী মহলে ছড়িয়ে পরে মেডিয়েশন সোসাইটির নাম। অ্যাক্রিডিটেড মেডিয়েটরদের মধ্যে থেকে অনেকেই ভারতের কোচিন থেকে মেডিশনের ওপর উচ্চতর প্রশিক্ষণ নিয়ে এসেছেন। এ বিষয়ে অ্যাডভোকেট এস এন গোস্বামী বলেন, 'আমরা চারটা বিশেষ প্রশিক্ষণ কর্মশালার আয়োজন করতে সক্ষম হয়েছি। বাংলাদেশের বাইরে থেকে ইন্টারন্যাশনাল মেডিয়েটর, ইন্টারন্যাশনাল আরবিট্রেটর্স দিয়ে অতি সামান্য টাকায় প্রশিক্ষণের ব্যবস্থা করেছি। যেটা বাইরে থেকে করতে গেলে লক্ষ লক্ষ টাকা খরচ হতো। ভাল মানের মেডিয়েটর তৈরির কাজ অব্যাহত রেখেছি। কারণ একজন ভাল মেডিয়েটর একজন ভাল বিচারক হতে পারেন, একজন ভাল আইনজীবী হয়ে মামলা জট নিরসনে অবদান রাখতে পারেন।'

দেশে প্রথম আন্তর্জাতিক মেডিয়েশন সামিট: প্রতিষ্ঠার এক বছর পূর্তি উপলক্ষে ২০১৮ সালের ৩১ মে আন্তর্জাতিক সামিটের আয়োজন করেন বাংলাদেশ ইন্টারন্যাশনাল মেডিয়েশন সোসাইটি(বিমস)। হোটেল পূর্বানীতে জমকালো এই আয়োজনের খবর ৪ মাস আগে থেকে বিভিন্ন পত্র/পত্রিকায় প্রচার হতে থাকে। দিনব্যাপী অনুষ্ঠিত আন্তর্জাতিক সামিটে এই ঢাকাসহ দেশের বিভিন্ন জেলা থেকে বাছাইকৃত ৪ শতাধিক ডেলিগেট অংশগ্রহণ করেন। সামিটে ইন্টারন্যাশনাল মেডিয়েটর্স এসোসিয়েশনের প্রেসিডেন্ট কেভিন ব্রাউন, ভারতের জাতীয় ইন্দিরা গান্ধী পুরস্কার প্রাপ্ত ও ইন্টারন্যাশনাল মেডিয়েশন ট্রেনার পিভি রাজা গোপাল, ইন্টারন্যাশনাল ট্রেনার অন সলিডারিটি জিল কার্ল হারিস, ইন্ডিয়া ইনস্টিটিউট অব আরবিট্রেশন এন্ড মেডিয়েশনের সভাপতি অনিল জাভিয়ার, বাংলাদেশ ইন্টারন্যাশনাল মেডিয়েশন সোসাইটির চীফ ট্রেনার ও জাতীয় মানবাধিকার কমিশনের প্রাক্তন চেয়ারম্যান ড. মিজানুর রহমান, ইন্টারন্যাশনাল মেডিয়েটর্স কে এস শর্মা, ইন্টারন্যাশনাল আরবিট্রেশন মি: ইনবাভিজান, কম্বোডিয়া সরকারের প্রতিনিধি মি. ছুও ভিয়েসনা, বাংলাদেশ ইন্টারন্যাশনাল মেডিয়েশন সোসাইটির রিজোনাল ডিরেক্টর ইরাম মজিদ সহ প্রমুখ বিদেশী অতিথির উপস্থিতি আন্তর্জাতিক সম্মেলনের মর্যাদা বহুগুণ বাড়িয়ে দেন। অনুষ্ঠানে অংশগ্রহণকারী অনেক ডেলিগেটকে বলতে শোনা যায়, সামিটে এত বিদেশী অতিথির অংশগ্রহণ সত্যিই অকল্পনীয়, অভাবনীয়। পরের দিন সামিটের খবর বিভিন্ন প্রিন্ট, ইলেকট্রনিক ও অনলাইন মিডিয়ায় ফলাও করে প্রচার হয়। বাংলাদেশে প্রথম ইন্টারন্যাশনাল সামিট অনুষ্ঠিত, মধ্যস্থতা বিষয়ক প্রথম সম্মেলন বাংলাদেশে' এ ধরণের শিরোনামে প্রকাশিত সামিটের নিউজ সাধারণ মানুষের মাঝে ব্যাপক সাড়া ফেলে। সামিট আয়োজনের ফলে আন্তর্জাতিক অঙ্গনে বাংলাদেশের ভাবমূর্তি অনেকগুণ বেড়ে গিয়েছে। বিশ্ববাসী জেনেছে বাংলাদেশের জনগণ মামলার উৎপত্তিস্থল মেডিয়েশন দ্বারা বন্ধ করতে চান এবং মেডিয়েশন দ্বারা মামলার জট কমাতে চান।

পিপলস মেডিয়েশন সেন্টারের যাত্রা: তৃণমূলে মেডিয়েশনের আন্দোলন ছড়িয়ে দেওয়ার অংশ হিসেবেই মানিকগঞ্জের সিংগাইর উপজেলায় "পিপলস মেডিয়েশন সেন্টারের" যাত্রা শুরু করা হয়েছে। সম্প্রীতি বজায় রেখে মামলা-মোকাদ্দমা থেকে বিরত রাখতে জনগণকে উদ্বুদ্ধ করাই হবে পিপলস মেডিয়েশন সেন্টারের কাজ।



মানিকগঞ্জের সিংগাইর উপজেলায় প্রথম পিপলস মেডিয়েশন সেন্টারের উদ্বোধন

এ প্রসঙ্গে বিমসের প্রতিষ্ঠাতা অ্যাডভোকেট এস এন গোস্বামী বলেন, সিংগাইরের মত বাংলাদেশের প্রতিটি উপজেলায় পর্যায় ক্রমে "পিপলস মেডিয়েশন সেন্টার" প্রতিষ্ঠা করা হবে। যার দ্বারা গ্রামীণ সাধারণ জনগণ মেডিয়েশন

সম্পর্কে সম্যক ধারণা পেতে পারবে এবং সম্প্রীতির মাধ্যমে সকল পর্যায়ে নিজেদের বিরোধ নিষ্পত্তিতে অগ্রণী ভূমিকা রাখতে সক্ষম হবে।

মেডিয়েশন অ্যাক্ট-২০১৮ এখন আইন কমিশনে: মেডিয়েশন আন্দোলন সফলের জন্য বাংলাদেশ ইন্টারন্যাশনাল মেডিয়েশন সোসাইটি (বিমস) কর্তৃক প্রস্তাবিত 'মেডিয়েশন অ্যাক্ট-২০১৮' বিবেচনার জন্য আইন কমিশনে হস্তান্তর করা হয়েছে।

গত ১৩ আগস্ট রাজধানীর আইন কমিশনের কার্যালয়ে কমিশনের চেয়ারম্যান সাবেক প্রধান বিচারপতি এ বি এম খায়রুল হকের কাছে বিমসের প্রতিনিধিদল প্রস্তাবিত আইনটি হস্তান্তর করেন। এ সময় আইন কমিশনের সদস্য বিচারপতি এ টি এম ফজলে কবির উপস্থিত ছিলেন।

অ্যাডভোকেট সমরেন্দ্র নাথ গোস্বামী বলেন, 'মেডিয়েশন অ্যাক্ট-২০১৮' নামে প্রস্তাবিত আইনটিতে ৭টি প্যারায় ৪৮টি ধারা সন্নিবেশিত করা হয়েছে।

প্রস্তাবিত আইনে উপযুক্ত ট্রেনিংয়ের মাধ্যমে সৎ ও আইনে দক্ষ মেডিয়েটরের মাধ্যমে মেডিয়েশন কার্য পরিচালনার কথা বলা হয়েছে। একটি কেন্দ্রীয় মেডিয়েশন বোর্ড গঠনের কথাও বলা হয়েছে, যেখানে প্রধান বিচারপতি পদাধিকার বলে চেয়ারম্যান হিসেবে থাকবেন।

প্রস্তাবিত আইনে আরো বলা হয়েছে, প্রধান বিচারপতি কর্তৃক মনোনীত এবং জাতীয় সংসদ কর্তৃক অনুমোদিত মেডিয়েটরদের দ্বারা বিচার বিভাগীয় ও প্রাক বিচার বিভাগীয় বিরোধ নিষ্পত্তিতে সহায়ক ভূমিকা পালন করবে। এছাড়া, মেডিয়েটরবৃন্দ বর্তমান মামলাজট নিয়ন্ত্রিত ও নতুন মামলা পরিহারে শান্তিপূর্ণ ভূমিকা পালনের কথা প্রস্তাবিত আইনে বলা হয়েছে।



প্রস্তাবিত 'মেডিয়েশন অ্যাক্ট-২০১৮' আইন কমিশনে হস্তান্তর

প্রস্তাবিত আইনে বলা হয়েছে, প্রধান বিচারপতি কর্তৃক নিয়ন্ত্রিত মেডিয়েশন বোর্ড নিজ মতাবলে জাতীয় পর্যায়ে মেডিয়েশন কার্যক্রমে অংশগ্রহণকারী প্রতিষ্ঠানকে ক্ষমতা অর্পণ করতে পারবে।

আইন কমিশনের চেয়ারম্যান বিচারপতি এ বি এম খায়রুল হক বলেন, মেডিয়েশনের এই আইনটি আমরা যাচাই-বাছাই করে তা যথাযথ কর্তৃপক্ষের কাছে পাঠাব। প্রস্তাবিত 'মেডিয়েশন অ্যাক্ট-২০১৮' যেন আইনে রূপ লাভ সে বিষয়ে আমরা পদক্ষেপ নেব। মেডিয়েশন আইনের খসড়া প্রণয়ন নিঃসন্দেহে বাংলাদেশে মেডিয়েশন আন্দোলন এগিয়ে নেওয়ার ক্ষেত্রে একটি বড় অর্জন।

যেতে হবে বহুদূর: মেডিয়েশন সোসাইটির অগ্রযাত্রাকে স্বাগত জানিয়েছে প্রধান মন্ত্রীর কার্যালয়, মাননীয় বিচারপতিদের অনেকে ও বহু বিজ্ঞ আইনজীবী। বর্তমানে সাধারণ আইনজীবীদের মধ্যেও মেডিয়েশন ধারণা ব্যাপকতা লাভ করেছে। এটা অবশ্যই আশার কথা। তবে মেডিয়েশন আন্দোলনের সঙ্গে সম্পৃক্তদের আত্মতুষ্টিতে ভোগার কোন সুযোগ নেই। এখনও পাড়ি দিতে হবে বহুপথ। এটা অবশ্যই মনে রাখতে হবে আমাদের দেশের বিচার বিভাগ প্রায় ৩৪ লাখ মামলার জট বয়ে বেড়াচ্ছে। এই মামলার জট নিরসনে ও মামলার উৎসস্থল বন্ধ করতে তৈরি করতে হবে হাজারো বিশেষজ্ঞ মেডিয়েটর। মেডিয়েশন আন্দোলনকে দূর্বীর গতিতে ছড়িয়ে দিতে হবে দেশের প্রতিটি আদালতে, প্রতিটি বারে ও গ্রাম থেকে গ্রামান্তরে।

## Pictorial



Bangladesh International Mediation Society (BIMS) 3rd Training on Introduction to International Arbitration and Mediation, at Hotel Purbani International, Dhaka, Date: 29-30 May 2018



Bangladesh International Mediation Society (BIMS) Training on Introduction to international Arbitration and Mediation Pan Pacific Sonargaon Hotel, Dhaka, Date: 20-21 December, 2017

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