

INTERNATIONAL CONFERENCE ON ALTERNATIVE DISPUTE RESOLUTION

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It is said that our society is based conceptually on social contract. We are parties to innumerable contracts with which we are not fully conscious of. When there are contracts, it is sure that there are bound to be disputes. To resolve these disputes, we find incessantly struggling in our life. To be free from any such problems, we have inherited judicial system from the forefathers and largely influenced by the system followed by the then rulers of this country. It is common knowledge that the existing system is not able to cope with increasing burden of litigation. We are in adversarial forum of litigation. And in such a system the decision making is a long process. Our rules of procedure have been carefully drafted in such a way that there shall not be any violation of principles of natural justice. Under this system :-

- each party has a responsibility for advocating its own case and attacking the other party's case, this puts an emphasis on confrontation.
- the lawyer's role is partisan, although a lawyer has certain important ethical countervailing duties to the court, the lawyer has a duty to represent the interest of his or her client and may not be ethically accountable for the client's goals or the legal means used to attain them.
- the Judge is responsible for ensuring that the proceedings are conducted fairly - this makes Judges sensitive about limiting the issues and arguments raised by parties and putting other controls on proceedings in case that is considered biased or unfair.
- the Judge is not responsible for how much evidence is collected, how many different arguments and points are put to the court or how long the proceedings take.

- The Judge adjudicates questions of fact and questions of law submitted to the court, but is not responsible for discovering the truth or for settling the dispute to which those question relates”.

It would be impossible to decide all these cases through the prescribed procedure. Therefore, it is absolutely necessary that we should have some other method by which we can dispose of some cases. That is why, we are anxious about the Alternative Disputes Resolution. We have been trying our best to have more courts and Government is giving good cooperation but every new court requires additional financial burden on the State. Every court may require Clerk, Peon, Process Server and other supporting staff. It is a recurring expenditure for the State. In a country, where State has so many other priorities, it is not always possible to give financial preference for establishment of courts. We know that health, education, agriculture and providing other infrastructure to citizens are some of the basic area where the

State would like to show its preference and in a democratic State people elect their representative, more or less, on the basis of the principle of quid-pro-quo. Therefore, we do not think that there can be large number of additional courts though we have been making serious efforts to have more courts in this country.

People have got tremendous faith in the system. The need of the day is to introspect how quickly we can provide relief to the people who come to the courts for redressal of their grievances so as to ensure that their confidence in the judiciary does not erode. The lawyers, the judicial fraternity and all those who are giving support to the system should change their mindset and see that at least some of the cases are settled through **Alternative Dispute Resolution**. We should evolve programmes whereby the **Alternative Dispute Resolution** can provide a better solution expeditiously and at lesser cost to the parties. The rules should be flexible and friendly to the litigants. The lawyers should play an active role in settling the disputes rather than fighting for rights

and trivial procedure for taking up the issues. Many of the disputes pending in our courts could be easily settled by timely resort to **Alternative Dispute Resolution**. Litigants and the lawyers, who represent them, should voluntarily come forward to see that their cases are settled through the easiest and inexpensive remedy of **Alternative Dispute Resolution**.

I wish all success to this International Conference.