Mediation: Means of Achieving Real Justice in Consumer Disputes

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> *"Access to Justice is basic to human rights. The right to justice is fundamental to the rule of law and so 'we, the people of India' have made social justice an inalienable claim on the state, entitling the humblest human to legal literacy and fundamental rights and their enforcement a forensic reality, however powerful the hostile forces be…Declarations and proclamations, resolutions and legislations remain a mirage unless there is an infrastructure which can be set in locomotion to prevent or punish a wrong and to make legal right an inexpensively enforceable human right. Injustices are many, deprivation victimizes the weaker sections and the minority suffers the oppression syndrome."*
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> – Justice V.R. Krishna Iyer[1]

Understood in this sense, the words "access to justice" immediately stir up in our mind, and rightly so, that every person who seeks justice must be provided "legal aid" to approach a Court of Justice. Normally it involves the notion of providing a lawyer to the legal aid aspirant. Infact, its emergence as "the most basic human right" was in recognition of the fact that possession of rights without effective mechanism for their vindication would be meaningless. But that is not the only meaning of these words. Achieving optimal and just results of a dispute is the access to justice in real sense.

Therefore, in this paper, an attempt is made to conceptually take the understanding of access to justice to a higher platform so as to deliberate upon it in the broader terms as to how it is to be achieved and furthered through the process of mediation. While undertaking this exercise, focus of this author would be on the resolution of consumer disputes. This paper proceeds in four parts. Part I sets out the jurisprudential basis of justice and conflict resolution in general terms. Part II will focus upon the

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1 Former Judges, Supreme Court, Foreword in Justice S. Muralidhar's book on *Law Poverty and Legal Aid: Access to Criminal Justice,* Lexis Nexis (2004).

conceptual understanding of access to justice and its development. Part III elaborates upon the concept of justice in mediation and the new dimension of access to justice through mediation. Part IV would discuss as to how the mediation mechanism can promote and become the most effective facilitator for promoting access to justice in consumer disputes. One thing needs to be clarified at the outset, at this juncture itself. Mediation, as a form of Alternate Dispute Resolution (ADR), was introduced with the insertion of Section 89 in the Code of Civil Procedure, 1908 (CPC) and it was generally the perception that the main purpose of introduction of Section 89 in the CPC was to lighten the burden of courts which are overflowing with heavy dockets. Thus, mediation, in the present form, along with other forms of ADR, was given birth to tackle the problem of heavy pendency of cases leading to delay in disposal of those cases which were posing a challenge to the legal system. No doubt, that remains the purpose of ADR system. However, it is the belief of this author, which is now receiving wide acceptance, that mediation is not only capable of reducing the court burden, it is also aimed at achieving a higher and more noble objective, namely, promoting a distinct form of justice, which turns out to be the better form of justice than through adjudication, on many occasions. It is this aspect of dimension of justice through mediation which is the running theme of this paper.

Concept of Justice and Conflict Resolution

Justice is a core value not only in the field of theology, law and political philosophy, but also in politics, social life and economics. It is a value that generates other values. At the same time, what we really mean by justice has alluded jurists, political thinkers and philosophers throughout the history of civilization. Issues, points of controversy and innovative ideas have been debated according to their respective understanding of justice. *Aristotle* opined that treating all equal things equal and all unequal things unequal amounts to justice. *Kant* was of the view that at the basis of all conceptions of justice, no matter which culture or religion has inspired them, lies the golden rule that you should treat others as you would want everybody to treat everybody else, including yourself. When *Locke* conceived of individual liberties, the individuals he had in mind were independently rich males. Similarly, *Kant* thought of economically self-sufficient males as the only possible citizens of a liberal democratic state. These theories may not be relevant in today's context when we consider it in the light of social justice and marginalized people or when we consider the matters of relief to be granted to the consumers, which is largely unorganized and generally on a weaker wicket than his opponents.

In post-traditional liberal democratic theories of justice, the background assumption is that all humans have equal value and should, therefore, be treated as equal, as well as by equal laws. This can be described as *'Reflective Equilibrium'*. The method of Reflective Equilibrium was first introduced by *Nelson Goodman*[2]. However, it is *John Rawls* who elaborated this method of Reflective Equilibrium by introducing the conception of *'Justice as Fairness'*. While on the one hand, we have the concept of *'Justice as Fairness',* as propounded by *John Rawls* and elaborated by various jurists thereafter in the field of law and political philosophy, we also have the notion of *'Distributive Justice'* propounded by *Hume* which aims at achieving a society producing maximum happiness or net satisfaction. When we combine Rawls's notion of 'Justice as Fairness' with the notions of 'Distributive Justice', to which Noble Laureate *Prof. Amartya Sen* has also subscribed, we get jurisprudential basis for doing justice to the weaker section of the society.

Before delving into the concept of justice in mediation, let us start with few harsh realities pertaining to conflicts. It is a part of human society that conflicts exist in every sphere of human life. Society can never be free from conflicts and disputes as they are bi-products of communication between people. Conflicts began with the dawn of civilization, nay, even before that. These conflicts have only increased with the passage of time and can be said to be the inseparable shadow of advancements, industrial, economic, social, cultural etc. The shadow has only got longer and longer. At the same time, it is also recognized that the conflicts have to be resolved in a civilized manner to have a civilized society. It is also accepted (and there cannot be any exception to the same) the sooner a dispute is resolved, the better it is not only for the parties in dispute but also for the society as a whole. This requirement becomes all the more imperative when conflicts arise between the consumers and the providers of goods and services.

History demonstrates that various forms of conflict resolution have been institutionalized from time to time. Presently, in almost all civil societies, disputes are resolved through courts, though the judicial system may be different in different jurisdictions. Traditionally, our justice delivery system is adversarial in nature. Of late, capabilities and method of this adversarial justice system are questioned and a feeling of disillusionment and frustration is witnessed among the people. After all, what is the purpose of having a judicial mechanism it is to advance justice. Warren Burger once said:

2 *See,* FACT, FICTION AND FORECAST (1955).

> "The obligation of the legal profession is… to serve as healers of human conflict…(we) should provide mechanisms that can produce an acceptable result in shortest possible time, with the least possible expense and with a minimum of stress on the participants. That is what justice is all about."

It is widely perceived that justice is not necessarily achieved through the adversarial system. Many times, it does not provide just solutions which results in discontentment between both sides of the disputes, the so-called 'warring groups' in the adversarial system. Therefore, deliberations were made by judges and other actors in the system to neutralize the same. It has resulted in the adoption of social context judging even in adversarial form of adjudication.

Prof. (Dr.) N.R. Madhava Menon explains the meaning and contour of social justice adjudication as the application of equality jurisprudence evolved by parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the socio-economic inequalities accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the judge has to be not only sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in miscarriage of justice. This result is achieved by what we call **social context judging or social justice adjudication.**

The judges have thus started invoking principle of fairness and equality which are essential for dispensing justice. **Purposive interpretation** is given to subserve the ends of justice particularly when the cases of vulnerable groups are decided. Judges have started keeping in mind the **'problem solving approach'** by adopting therapeutic approaches to the maximum extent the law permits rather than *'just deciding'* cases thereby bridging the gap between law and life, between law and justice.

This approach of problem solving through social context judging stands recognised with the enactment of the Consumer Protection Act, 1986. Prior to enactment of this legislation in the year 1986, such disputes were treated as civil disputes and were decided through normal adjudication by civil courts, with the applicability of adversarial process in *strictosensu*. Such a procedure was not only time consuming but mired by technicalities with the applicability of CPC and the Evidence Act, etc. Even the litigation was costly resulting into getting justice a myth. Many small consumers would not even dare to approach the civil court for redressal

of their grievances. In that sense, the Consumer Protection Act, 1986 came to the rescue of the common man. The idea was to provide simple and quick solution to the consumer woes. When we keep in mind the main objectives of the Consumer Protection Act and the nature of machinery for redressal of consumer disputes as well as the nature of reliefs which are available to the consumers under the said Act, it is in fact a departure from the strict adversarial system. However, later at an appropriate stage, even the hierarchy of consumer courts provided in this Act has not been able to fully achieve this objective. But, emphasis at this juncture is on social context adjudication with the remarks that many a times adversarial system is not able to bring out just results in resolving the conflicts in a given situation.

Access to Justice: Conceptual Understanding

What is then real access to justice?

From the human rights perspective, persons belonging to the weaker sections are disadvantaged people who are unable to acquire and use their rights because of poverty, social or other constraints. They are not in a position to approach the courts even when their rights are violated; they are victimized or deprived of their legitimate due. Here lies the importance of access to justice for socially and economically disadvantaged people. When such people are denied the basic right of survival and access to justice, it further aggravates their poverty. Therefore, even in order to eliminate poverty, access to justice to the poor sections of the society becomes imperative. It is the constitutional mandate and, therefore, the responsibility lies on all the players in the judicial system to provide access to justice to the persons in need. No citizen can be exploited and it is the bounden duty of the State to secure the operation of the legal system promoting justice, on the basis of equal opportunity and also to provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The term access to justice has been most commonly used to reform the lacunae and loopholes in state legal system to "ensure that every person is able to invoke the legal processes for legal redress irrespective for social economic capacity" and "that every person should receive a just and fair treatment within the legal system".

"Access to justice" in its general term, connotes an individual's access to court or a guarantee of legal representation. It may be expressed through identification and recognition of grievance, awareness and legal advice or assistance through camps, accessibility to court or claim for relief, adjudication of grievance. Enforcement of

relief however would most likely be the ultimate goal of a litigant. The concept of 'access to justice' has two significant components. The first is, a strong and effective legal system with rights, enumerated and supported by substantive legislations. The other is, a useful and accessible judicial/remedial system easily available to the litigant public.

Many steps are taken by the Legislature, the Executive as well as Judiciary for providing access to justice to persons in need. Various steps are taken to ensure providing of legal aid to the poor in a meaningful manner, both at micro and macro level. National Legal Services Authority (NALSA) at the national level and State Legal Services Authority at the regional level. Still much needs to be desired to be done.

As highlighted earlier, this understanding of 'access to justice' remains partial in nature. Real access to justice cannot be confined to facilitating a person to mere access to justice delivery system by providing legal aid in the form of a lawyer and the cost of litigation. Proper redressal of his grievance by giving him his legitimate due and thereby achieving optimal and just results is the real form of access to justice, as highlighted in Part I above. The hypothesis of this paper is that such a form of justice is better achieved through Mediation which we discuss hereinafter.

Mediation: Expansion of Access to Justice

Many times, having regard to the limitation of adversarial system of adjudication that prevails in the courts, even with best intentions and best efforts, just results are not achieved. Apart from shortcomings of adversarial system of justice, in adjudication of disputes, the courts are concerned with the past events whereby one party was wronged by the other. Those events are resurrected in the Court and the judge is required to find out as to who was the wrong doer and to what extent. Based on such findings, relief is given to the person who suffered at the hands of the wrong doer. Even when the person who is wronged is compensated, it may not necessarily lead to perfect resolution of the conflict. Adversarial system does not look into the future nor does it attempts at rehabilitating the torn relationship, which was the result of a dispute between the parties. It is not concerned with mending the broken relations between the two parties litigating before it. On the other hand, all this is achieved through mediation which brings about *'win-win'* situation.

The concept of Justice in mediation is advanced in the oeuvres of *Professors Stulberg, Love, Hyman, and Menkel-Meadow* (Self-Determination Theorists). Their definition of justice is drawn primarily from the exercise of party self-determination.

They are hopeful about the magic that can occur when, people open up honestly and empathetically about their needs and fears in uninhibited private discussion. And, as thinkers, these jurists are optimistic that the magnanimity of the human spirit can conquer structural imbalances and resource constraints.

Professor Stulberg, in his masterful comment on the drafting of the Uniform Model Mediation Act, Fairness and Mediation, begins with the understated predicate that "the meaning of fairness is not exhausted by the concept of legal justice". In truth, the more pointed argument advanced in the article is that legal norms often diverge quite dramatically from our notion of fairness and the notion of fairness of many disputants. Legal rules, in Stulberg's vision, are ill-equipped to do justice because of their rigidity and inflexibility.[3] *Professors Lela Love* and *Jonathan M. Hyman* argue that mediation is successful because it provides a model for future collaboration. The authors state that the process of mediation entails the lesson that when people are put together in the same room and made to understand each other's goals, they will together reach a fair resolution. They cite *Abraham Lincoln's* inaugural address which proposed that in a democracy, "'a patient confidence in the ultimate justice of the people' to do justice among themselves...is a pillar of our social order."[4] *Professor Carrie Menkel-Meadow*[5] presents a related point of view in making the case that settlement has a political and ethical economy of its own and writes:

> "Justice, it is often claimed, emerges only when lawyers and their clients argue over its meaning, and, in turn, some authoritative figure or body pronounces on its meaning, such as in the canonical cases of the late-twentieth century… For many years now, I have suggested that there are other components to the achievement of justice. Most notably, I refer to the process by which we seek justice (party participation and empowerment, consensus rather than compromise or command) and the particular types of outcomes that might help to achieve it (not binary win-lose solutions, but creative, pie-expanding or even shared solutions)."

Justice in mediation also encompasses external developments, beliefs about human nature and legal regulation. Various jurists are drawn to mediation in the belief that

3 *Fairness and Mediation* (1998) 13 Ohio State Journal on Dispute Resolution 909 (Issue 3).

4 If Portia Were a Mediator: An Inquiry Into Justice in Mediation (2002) 9 Clinical Law Review 157.

5 Practicing in the Interests of Justice (2002) 70 Fordham Law Review 1761.

litigation and adversarial warring are not the only, or the best ways to approach conflict. And how optimistically and sceptically mediators assess the capabilities of individual parties and institutional actors to construct fair outcomes from the raw material of human conduct.

Further, as *Dias* puts it, in his book on 'Jurisprudence', that one of the tasks in the achieving of justice is adapting to change. No society is static. Adaptability is truly a condition sine qua non of the continued existence of a legal system. Keeping in view, the aforesaid concept of justice in mediation as fairness beyond legal justice and adapting to change as justice, the deliberations were also made apart from social context adjudication to institutionalize the process of mediation. This shift brought the advent of alternative methods of dispute resolution and significant amendments were carried on to the CPC providing for the settlement of disputes outside the Court.

Given the import of the amended Section 89 of the CPC the provisions of the Legal Services Authority Act, 1987 and the Arbitration and Conciliation Act, 1996 an attempt was made to look beyond the confines of conventional procedures and seek settlement that fair to both the parties.

Mediation is one such mechanism. It is one of the methods of Alternative Dispute Resolution and resolves the dispute in a way that is private, fast and economical. It is a process in which a neutral intervener assists two or more negotiating parties to identify matters of concern, develop a better understanding of their situation and based upon that improved understanding, develop mutually acceptable proposals to resolve those concerns. It embraces the philosophy of democratic decision-making.[6]

Thus, mediation being a form of Alternative Dispute Resolution is a shift from adversarial litigation. When the parties desire an on-going relationship, mediation can build and improve their relationships. To preserve, develop and improve communication, build bridges of understanding, find out options for settlement for mutual gains, search the unobvious from obvious, dive underneath a problem and dig out underlying interests of the disputing parties, preserve and maintain relationships and collaborative problem solving are some of the fundamental advantages of mediation.

There is always a difference between winning a case and seeking a solution. Via mediation, the parties will become partners in the solution rather than partners in

6 James Alfini et al., *Mediation Theory and Practice*, 2nd Ed. (Lexis Nexis, 2006).

problems. The beauty of settlement through mediation is that it may bring about a solution which may not only be to the satisfaction of the parties and, therefore, create a 'win-win' situation. This outcome cannot be achieved by means of judicial adjudication. Thus, life as well as relationship goes on with Mediation for all the parties concerned resulting in peace and harmony in society. While providing satisfaction to the litigants, mediation also solves the problem of delay in our system and further contributes towards economic, commercial and financial growth and development of the country.

The notion of access to justice is to be taken in a broader sense as highlighted upon in the beginning of this paper. Right of access to justice meant essentially the aggrieved individual's right to litigate or defend a claim. In other words, those in need and the under privileged are provided with legal aid in the form of a lawyer or the court fee/litigation expenses etc. However, this cannot be crafted as access to justice but only as an "access to courts". If we want to render justice to the poor that means fair solutions to the conflict thereby providing real access to "justice", mediation will play a major role. Mediation is one such positive step towards the expansion of the scope of access to justice so as to inhere in it the complete notion of justice. Social context adjudication, after all, remains adjudication by the court and the outcome would depend upon the competence of the judge handling such cases who should be equipped with proper mindset, training expertise and dexterity to provide just solutions.

Thus, a step forward is mediation which ensures a just solution acceptable to all the parties to dispute thereby achieving 'win-win' situation. It is only mediation that puts the parties in control of both their disputes and its resolution. It is mediation through which the parties can communicate in a real sense with each other, which they have not been able to do since the dispute started. It is mediation which makes the process voluntary and does not bind the parties against their wish. It is mediation that saves precious time, energy as well as cost which can result in lesser burden on exchequer when poor litigants are to be provided legal aid. It is mediation which focuses on long term interest and helps the parties in creating numerous options for settlement. It is mediation that restores broken relationship and focuses on improving the future not of dissecting past. It is mediation which ends up in restoring the broken relationship and fostering and cementing the relationship for future. In other words, mediation does not uphold the principles of court-based justice; it is based on an alternative set of values in which formalism is replaced by informality of procedure, fair trial procedures by direct participation of parties, consistent norm

enforcement by norm creation, judicial independence by the involvement of trusted peers, and so on. This presents an alternative conceptualization of justice. The concept of justice in meditation is distinguished by its direct accessibility, particularly in comparison with the economic obstacles to legal justice, and by its responsiveness to the peculiar needs and interests of the parties. Further, the parties continue to relate after their dispute has been managed, for example, in the families, in the workplace and in neighbourhood communities.

Moreover, access to justice is not just access to judicial system, but it includes access to adequate dispute resolution process for people. Thus, there is a special place for alternative dispute resolution process in access to justice. Because, the establishment of alternative means of dispute resolution could serve to significantly reduce the number of disputes before the civil courts and thereby lead to an increase in overall efficiency. So, effective implementation of alternative means of dispute resolution explicitly eases the citizens' access to justice.[7] The amendment has been brought forth keeping in view the sense of crisis in the administration of civil justice being troubled by excessive costs, delay and complexity.

Mediation in Consumer Disputes

Almost all categories of disputes, with the exception of few, are capable of settlement through mediation. Benefits of mediation, which have been explained above, will apply with equal measure irrespective of the nature of dispute that needs to be resolved. However, when it comes to settlement of consumer disputes, the advantages of mediation are unparallel. The peculiar nature of consumer disputes is explained by Ms. Rajyalakshmi Rao and Mr. Nabankur Gupta[8] in the following manner:

> "Every citizen of the country is either a consumer of goods or services or a consumer of both. By forming the majority, consumers should have constituted the strongest lobby in the country and been a force to reckon with. Unfortunately, because of a lack of effective organization to voice their concerns, consumers in India were faceless, voiceless, submissive and meek persons, accepting whatever sub-standard goods or services were being offered to them. Things may have changed

7 Adrian Zuckerman, JUSTICE IN CRISIS: COMPARATIVE DIMENSIONS OF CIVIL PROCEDURE (OXFORD 1999).

8 In the Book CONSUMER RIGHTS AND YOU'.

> a bit in favour of the affluent consumers in recent years, due to some element of competition and choice in the retail sector. However, the condition of the average middle-class consumers, not to talk of the poorer sections, remained pitiable, with no one to listen to their woes and with no mechanism to redress their grievances. The reality is that litigation for the common man was costly and time consuming and hence, getting justice became a myth."

Keeping in view the aforesaid considerations, the Consumer Protection Act was enacted to take away the consumer disputes from normal adjudicatory system. No doubt, the Consumer Commission, while dealing with the complaints of the consumers, do not indulge in unnecessary technicalities of procedure or evidence and are supposed to adopt summary procedure in deciding consumer disputes. To that extent, the Consumer Protection Act may have served some purpose. Notwithstanding the same, the system by and large remains adjudicatory which has the elements of adversarial litigation. Then, there is hierarchy of fora under the Consumer Protection Act, viz. from District Forum to the State Commission to National Commission for redressal of grievances and many such cases ultimately land up in the Supreme Court as well. In this backdrop, mediation of such disputes becomes all the more relevant when it comes to resolving consumer disputes. The relevance and importance of mediation for such disputes gets further support when we take into account new types of consumer disputes which have arisen in the recent years. First peculiar feature is the mass problems that can occur in many consumer disputes. There can be a dispute over whether bank charges are too high; whether terms and conditions are unfair commercial practice; whether a medicine has caused injuries wherein large number of persons are affected; whether there is deficiency of service on the part of a builder who is constructing flats for number of persons, etc. In all such kind of disputes, large number of consumers would be involved. They may be seeking redress individually or collectively. A collective legal redress through the consumer court or normal court system is known as *'class action'*. For various reasons, it becomes necessary to resolve such disputes. This situation justifies resolution of disputes through the mechanism of mediation.

Second phenomena which has developed in recent years is that of e-commerce where consumers are buying products online. A dispute erupting in respect of online transaction can be better resolved through mediation and the experience in other countries has shown that mediation is form of the ideal form for deciding those disputes. Whereas, on the one hand, technology has facilitated e-commerce, the

same very technology can be used for resolving these disputes through online mediation. We have noted that the main reason for building an ADR system arises from concern that the courts are too slow and expensive. But other overwhelming considerations for resorting to mediation are confidentiality, greater informality, and other outcomes such as restoring peaceful relationships through a process that is not adversarial or bipolar (one side wins, the other loses) but less aggressive and more consensual.

Moreover, the current overriding economic imperatives of governments are highly relevant. In order to rescue the economy, governments have to cut public expenditure and incentivise the growth of private business. They do not want to impose unnecessary transactional costs (through unnecessary regulation or litigation) on business, but they do want competitive and hence innovative markets, in which the rules are observed. Increasing emphasis has been placed on extra-judicial dispute resolution, since this may be particularly relevant for small claims by consumers and Small and Medium Enterprises (SMEs). All these features specific to consumer dispute justify use of mediation as a technique for resolving the same.

Going by the aforesaid considerations, ADR (particularly, through mediation) for consumer disputes has already gained popularity in America and the European Union has also taken various initiates in this behalf in last few years.[9] At European Union level, measures started with two recommendations on standards for mediation and have progressed to more formal structures.[10] Steps are also taken for establishment of European Online Dispute Resolution system. Though in last few years mediation has gained tremendous momentum in this country as well, there is no particular emphasis to resolve the consumer disputes in particular, through the process of mediation, much less with the aid of online dispute resolution mechanism.

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9 *See,* CURRENT DISCUSSIONS ON CONSUMER REDRESS: COLLECTIVE REDRESS AND ADR by Christopher Hodges.

10 *See,* Footnote 9 for formal steps taken in this behalf where the author has highlighted the steps taken by the European Union and the Directives issued by it that encouraged Member States to establish following types of ADR Schemes:

- the E-commerce Directive
- the Postal Services Directive
- the Markets in Financial Instruments Directive (MiFID)

European Union legislative frameworks that require that adequate and effective ADR schemes are put in place:

- the telecom sector
- the energy sector
- the Consumer Credit Directive
- the Payment Services Directive

However, as an exception, one can mention the commendable step taken by the National Law School of India University, Bengaluru, has established 'Online Consumer Mediation Centre' (OCMC) with a slogan "Anytime Anywhere Dispute Resolution", under the aegis of Ministry of Consumer Affairs, Food and Public Distribution, Government of India. It has even framed the Mediation Rules & Code of conduct in 2016. This Mediation Centre set up by the University provides facilities to settle the disputes either through negotiations or mediation or both. Aim is to encourage parties to make an attempt to resolve their dispute amicably by mutual negotiations through the Centre in the first instance and if that fails, such a dispute can be referred to the Centre's mediation process. This Centre, though encourages online settlement of disputes, nevertheless, physical negotiation/mediation is also held. It has set an example that universities can play meaningful role in spreading the mediation movement and can even act as catalyst in this behalf.[11]

Recognizing the fact that e-commerce is growing at tremendous pace, there would be quantum jump in consumer disputes. Such disputes would also have international and cross-border ramifications. In fact, this trend has already started. For this reason also, online resolution of consumer disputes is going to gain momentum as adoption of this process would almost become a necessity in such a scenario and would be perceived as providing best resolution to the consumer disputes, aiming at real justice.

In conclusion, notion of access to justice constitutes three tier approach of justice: first, a strong legal system with rights enumerated and supported by substantive legislation; Secondly, with respect to approaching the Courts and emphasizes upon legal aid and legal representation whereby making an accessible judicial system; thirdly, an effective remedial system and its enforcement thereof. It is the last-mentioned approach which encouraged the exploration of a wide variety of reforms including inclusion of alternate dispute resolution to our judicial system so as to facilitate resolution.

Thus, the conception and practice of mediation as an important aspect of access to justice exemplifies features of the pure concept of justice. That leads to the conclusion that party-acceptability of outcomes is, and should be, the defining feature of justice in mediation. The party acceptable outcome is synonymous with fairness and the same is synonymous to justice.

11 For detailed discussion on Role of Universities in Online Consumer Mediation, read the Article by Prof. (Dr.) Ashok R. Patil and Ms.Pratima Narayan, Professor and Research Associate of the National Law School of India University, Bengaluru.

Accordingly, *'Justice as Fairness'* with *'Distributive Justice'* is to be achieved in a society, resulting in producing maximum happiness or net satisfaction, it can be through mediation whereby entailing the 'concept of justice in mediation of fairness beyond legal justice'. It, therefore, becomes the duty of all of us to strengthen the mediation mechanism thereby accessing justice through mediation and shaping a peaceful society.

There's an old African proverb that goes: *"When spiderwebs unite, they can halt even the lion."* If we are able to unite for access to justice through mediation, we can even halt the lion of war.

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