

V. R. Krishna Iyer  
(Former Judge, Supreme Court)

Fax and Phone : 0484 - 2370088

"SATGAMAYA"

M.G.ROAD, ERNAKULAM

KOCHI - 682 011

E mail : satgamaya@dataone.in

vrkrishnaiyer@gmail.com

Website: www.vrkrishnaiyer.org

### **SOME INITIATIVES AND NEW THINKING ON THE CONCEPT OF ALTERNATIVE DISPUTE RESOLUTIONS**

Alternative Dispute Resolution is a must when we find the ghastly arrears and the gruesome expenditure involved in seeking justice from the traditional multi-tired infrastructure and individualist concept of locus standi. We require a liberal public interest oriented concept of cause of action so that on matters of public interest affecting the poor socially sensitive humanist may come to court and present the public grievance even though he may not be individually victimized. My own decisions on Public Interest Litigation have been inspired by a socialist motivation. Justice Michael Kirby as Chairman of the Australian High Commission has propagated such a view and I have borrowed from him that perspective. Justice is public good and should never be narrow. In this spirit I maintain as part of Indian jurisprudence a broad-based generous ideology of cause of action and locus standi. So long as each one is his neighbour's keeper, there is moral nexus, a divine sharing and caring of the sufferings of our neighbours by each one of us. It is this fundamental radicalisation of the right to justice that really gives the spiritual foundation for Alternative Dispute Resolution methodology. In pragmatic terms new parameters for the Bench and the Bar will have to be evolved. For instance, every lawyer before he takes the case to the court in litigative apparel must first try to settle the matter. This will be easy and feasible some lawyers are there on both sides. They can take it over in a mutual discussion, reduce the area of controversy or even settle the whole matter and over allied disputes on a just and reasonable basis. Gandhi as a lawyer in South Africa secured the freedom from his client to settle reasonable compromise proposals and concede to the court what he considered was the truth of the case. The result was the judges were impressed with him and his income escalated. Similarly we must have arbitration panels set up by the highest court manned by persons of high moral stature and willing to work for a reasonable remuneration free from avarice and making arbitration a racket as now. This may require fresh legislation making arbitral justice offering access to justice to the common people. Yet again we can have Circuit Benches where the villager gets a hearing and disposal in the village visited by the village judge concerned. At present robed brethren are immobile. No. They must move into the areas of dispute and make justicing an approachable facility. Evening courts where retired judges can be invited to preside is another alternative. The day of work need not be sacrificed if evening courts can bring parties and lawyers to participate in the trial process in the evening courts. Similarly when justice is of a technical nature, technical personnel and not merely lawyers should be brought into the court system on a fair remuneration. I tried this with success on the Bench when



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issuing commission and settling arbitration matters. Technical bodies of engineering, architecture and other esoteric departments can be tried out successfully if only scientists and others with special know-how can be persuaded to produce just resolution of technical matters involving public welfare. Journalists, educationists and artists can perform quasi-judicial functions in this new set up provided there is some judge to guide them on jural principles and rules of natural justice. I am all for a revolutionary dynamic approach to the administration of justice. We must drop the myth that only judges can do justice in every form of dispute. Indeed they create more arcane problems and delay matters as is now happening in the horrendous expensiveness and prolixity of arbitration a professional terrorism of judges. Harsh words I know. But justice wins only if perestroika and glasnost in their wider transparent dimensions are made universal in every form of Alternative Dispute Resolution.

In traffic and motor vehicle offences a mobile itinerant court with the prosecutor and judge inside a van with fast speed will do justice quicker than the formality not pursued. Of course, many sections of the CPC and CRPC can be deleted with mobile alternatives and technical devices now since computerisation has become so common and facilitates paperless justice.

To the bitter experience of Indian litigants it has been discovered that the litigation process lacks behind and specialises in slow motion and frequent adjournments, revisions, reviews and suits to nullify earlier decisions and other devices which make cases dawdle and somnolescent. In America and in many other countries this lethargic litigative laggardness is solved by judges themselves being trained in alternative methods of dispute resolutions. Many institutions with the co-operation of the Bar facilitate this objective is achieved. In India horrendous delay outrage the common man's faith in courts. One institution ADR Centre has come forward in public interest to assist in the justicing by Alternative Dispute Resolution methodology. This is our innovation which requires encouragement from the people, the Bench and the Bar. I am deeply impressed with this operation and wish them a great measure of success. If they succeed it will be the beginning of a movement. Indeed we need a code regulating alternative methods of dispute resolution. Arbitration was one such. But alas, this wholesome method has been made a racket by the Bench and the Bar—shockingly expensive unpardonably dilatory and exasperatingly defeat the very objective. In my view Alternative Dispute Resolution needs legislator's great concern. Litigative patriotism can no longer tarry. I applaud Alternative Dispute Resolution Centre and appeal to our Executive, Legislature and Judiciary to creatively catalyse ADR for being the pioneer



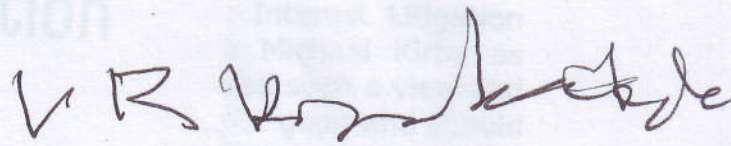
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Centre deserving my congratulations. Yes, don't stop half way. Go ahead into a movement, then we can well say Winston Churchill's words will well apply to this organisers of this movement:

Never in the field of human conflict was so much owed by so many to so few

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V.R. KRISHNA IYER

**CENTRE FOR PUBLIC POLICY RESEARCH**  
Door No. 28/3656, First Floor,  
SONORO CHURCH ROAD,  
ELAMKULAM, KOCHI - 682 020.

[www.adrcentre.in](http://www.adrcentre.in)