



MIDEATE

Madhyastham: End litigation; embrace mediation

Introspect to improve as mediator

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When have you ever found yourself sitting in one place staring blankly into empty space in your room for a long time? Forever, we had always been chasing some activity, some person, some thing outside of us. Now everything has changed.

Somebody writes wryly, the need for social distancing is easy to understand and practice for a society so steeped in the practice of caste. The initial days of lockdown were depressing. Even to a person not given to much socializing, the feeling that you could get imprisoned in your

thoughts and there was no scope for interactions with others in physical presence seemed oppressive.

Visiting an open prison in UK, one of the judges from India visiting the facility asked the Jail Superintendent, with so many entertainment avenues available there, how does any one feel "imprisoned" or feel like being punished. The prison in charge was reported to have replied: Let someone say that you will reside in your own 'judgely' bungalow with all your comforts of servants, but let there be an order that nobody will come to your house nor

can you visit anyone. My friend laughed away the suggestion but confessed, she understood that imprisonment as a fetter operates in body and mind simultaneously.

But should solitude be desultory oppression? Is it possible to sublimate it to higher realization by digging deep within you?



Introspect

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Looking inwards meditatively

The constant refrain is, practice makes perfect. Even as the mind wavers restlessly, in repetitive observation of the 'well' within, the mind resides in self. To Bhagwan Ramana, it is the least cumbersome of all that is in

sadhana. To a lady devotee, who asked, Swamy, I am not much educated, will all this practice of *atma vichar* work for me? The Bhagwan did not have to answer. He could make possible realisation of the Self

for the simple devotee by his grace; by his compassionate look. But he said, keep trying; it will work.

Shall we take time to examine ourselves through these pages? And help others acquire new skills?

Bringing peace into the room

Daniel Bowling and David Hoffman have compiled essays from mediators across the world to let us know how peace will arrive in the room through mediator's meditateness!

They have tossed this question of how the personal qualities of the mediator impact the process of conflict resolution to several persons and elicited their responses to put together a book with the title which is also the heading above.

The personal qualities that we

bring to the room affect subtly the conduct of parties and if things go out of the way, there is something in us as mediators that misfired to let the parties fly in umbrage. It is all good to say that the mediator's role is no more than making the parties in conflict to converse; to speak with dignity and mediator herself does not impose her will or order quiet. The truth is, the ambiance of amiability, the placid calmness of composure, the outwardly warmth that springs out, all that come from the mediator ought to evoke reciprocal emotions

to start with. Before getting into the room for mediation, remind yourself of what your need to exude naturally and not with feigned comfort. infectious.



Being a mediator with unlimited responsibilities

Mediation is not for the faint hearted; nor is it for a person with wooden demeanor. It is for a person with compassion; for a person who is empathetic.

A spiritual guru in South India has this to say that to be responsible is to respond in some way to every situation that happens around us. Just not in our immediate presence

in our vicinity but in a distant Timbaktu, even!

Have we not heard that Swami Vivekananda woke up in the middle

**“Each man's death diminishes me,
For I am involved in mankind.
Therefore, send not to know
For whom the bell tolls,
It tolls for thee.”**

of the night and seemed restless, as though something serious was amiss. It turned out that in the morning, there was news of a devastating earthquake that had caused immense casualties and ineffable suffering to the people that survived in distant Fiji islands.

Keep your heart and mind malleable; to respond to every wailing; to assume responsibility to every suffering.

Internal metamorphosis

In the initial phases of training to be a mediator, the endeavour is to develop the skills; convening parties, by coaxing and cajoling, if necessary, once, in the room, laying out the rules of the game; honing skills of active listening; mirroring emotions; getting to extract the underlying interest that will help other side to move with fresh options; unravel facts hidden through open ended questions; not

judging but trying to understand why a person does what she does.

As you traverse the path, you realise, how important is your own

**“Life keeps breaking our hearts
open until we have the courage to
allow our hearts to stay open. The
joy and grace of this gift is the
doorway to presence.”**

personal development. Daniel Bowling and David Hoffman say, “integration”- a quality of being in which the individual feels fully in touch with, and able to marshal, his or her mental, spiritual and physical resources- is one way to describe what underlies presence. – a quality in you that defines a mediator, that refines discussion and elevates the quality of the process.

Calibrated questions in negotiation

In any negotiation, the attempt must be to make the other person feel as though she is in control and you are only looking for guidance from the other. The other person, piloting the demands of what she expects, will keep generating answers to satisfy you! It is more iterative than intellectual process.

Writing on the art of negotiation, Chris Voss in "*Never Split the Difference*" an FBI hostage rescue operation expert, explains how his techniques were just relevant in business deals as it was, helpful while dealing with outlaws demanding ransom.

Just as the hostage taker demands a huge ransom for release of the hostage victim, the response is to always lob the demand back to him innocently and sounding helplessly, 'how am I supposed to do that?' If the person at the other end gets tough and asks, 'I know, you have the money, just spill it, otherwise, your son's neck will be slit', the response still will be, 'how do I know I can give the money without knowing my son is ok and not hurt.' You can keep asking measured questions of how repeatedly to various situations when during the entire dialogue, you have not given

into any demands but only securing assurances from the captor.

Gone are the days, when you blow into the camp of the kidnapper by a bomb or a sniper. You disarm him by questioning his actions. Things are not, very different in business deals. Haggling for price or seeking an employment or negotiating a hike in salary, when the other side places a demand on you, your endeavour must be keep the conversation without saying no; ask how you work it out. The way of converting no to how is the first lesson!

If no should be avoided, saying yes too soon will result in an unfair bargain. Any one caught in negotiation wants to create an impression that she is fair. She is not taking you for granted. You are not being exploited. Yes, closes the deal. Question the other person of whether she is fair in the offer/ demand, whether she understands your problem and difficulties. Put the onus of

explaining that your own relative status or position or knowledge is not inferior. Make the person feel that if you do not know about

"Half of the troubles of this life can be traced to saying yes too quickly and not saying no soon enough." Josh Billings

Delay saying yes

someone, or something, you need to be told of all information that is relevant to make the deal a fully informed one. Make it sound that you have reason to do a good turn to the other that the other person had been very reasonable. Even an unscrupulous trader wants to be branded as reasonable rascal.

Haggling over numbers

In many a conflict situation, the crux is the financial recompense for one to another for loss incurred, for profit expected, for separation to be coped with or simply the only way the dispute could be doused.

Whatever is the starting point of the talks, the resolution is in sight if some financial adjustment could be thrashed out. If we have an idea of how to substitute no for a how and

delay saying yes, that no, which is an initial rejection must head for a retreat. There is not all times deceit or con that will do the trick. In haggling for numbers, where a commitment of liability is certain, a relatively lower figure will seem attractive from the initial refusal that would seem like a concession. Who does not find it attractive? Business sales strategies are

invariably anchored around some rebates, gifts and discounts, nothing of which cuts down profits. It is to enhance business that a retreat tactics is adopted. It is matched by reciprocal offer to take the reduced offer to seem earnest; to be seen as business like. To retain value to the deal for both sides.

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End litigation; Embrace mediation.

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To think of a world without conflict is but a dream. Noah Harari, when he was questioned about his impressions about how India was dealing with Covid19, confessed to being not an expert on Indian affairs but sounded concerned that there was unnecessarily blame mongering on Muslims. He reminded that in harsh times of global concerns about all round danger and devising joint strategies for redemption from extreme poverty and hardships that this lockdown will entail, there is a need for language of love to be exchanged, care for the underprivileged. The message cannot be more forthright and timelier from a giant among intellectuals of our times.

Time for all round learning

There is a flurry of activity from all across India in various circles, meeting each other in virtual world, discussing common problems, learning new stuff and using video conferencing like never before.

In the legal field, like other areas of activities, judges are giving lectures. Senior counsel are suddenly interested in educating juniors. The good element is there is simply no monetary expectation involved from any quarters.

Coming to think of it, every other lecture seems to have some new relevance. Recognising the worth of

knowledge exchange has a quality of shedding conceit that there is nothing more to be learnt; that we know everything. A friend informed that a person who was opposed to her on some concepts of law on intellectual property that a reward for invention cannot be placed above public interest, relented and saw the merit of position that the driving force for inventions must be what subserves advancement of common good and reward is but an incidental byproduct.

Adversity teaches us several lessons: humility, willingness to share and above all compassion for the suffering. We should so

take these conditions that when we are back to normal, we are better human beings serving one another and live with a new camaraderie that no holocaust could break the bonds.

