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# Human Centric Approach in Negotiations and Dispute Resolutions Understanding Legal and Psychological Aspects

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## ABSTRACT

*“To practice the conflict resolution process, we must completely abandon the goal of getting people to do what we want.” The best way to understand and resolve a conflict is to analyse how legal provisions can be connected with the psychological aspects of human beings to provide better outcomes. Exploring the human-centric approach in dispute resolution helps analyse the practical aspects of involving psychological support, such as counselling or therapy, in the traditional legal dispute resolution process and helps enhance the strategies. It aims to evaluate the potential benefits, such as improved emotional well-being and more satisfactory resolutions, as well as its challenges and other benefits. Properly understanding human mindsets during conflict resolution aims to identify and replace traditional practices and help generate new ideas that integrate legal and psychological perspectives to address these challenges, ensuring fair and equitable outcomes for all parties involved. Given the complexity of human mindsets, connecting and understanding legal and psychological grounds is essential to understand the foundation of these conflicts be it any means of dispute resolution. This research paper aims to help mediators and negotiators understand how human psychology can be associated with the relevant legal provisions during dispute resolution processes, which will provide more refined and more balanced results.*

**Keywords:** *Psychology, human mindsets, conflict resolution, human-centric, negotiations.*

## I. INTRODUCTION

The entire concept of the human-centric approach in dispute resolution helps the third person who acts as either a mediator, a negotiator or a general conflict resolver understand the fact that to come to a common understanding and resolve the conflict between the parties, various factors come into the picture which not only include the facts, the situation, or just the outcomes. Unlike traditional dispute resolution methods such as negotiation, mediation, etc, converting these methods and introducing the human-centric approach along with

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understanding and considering psychological factors such as emotions, empathy, sympathy, etc will not only help enhance the outcomes but also safeguard the parties' feelings and psychological needs. Once the external dispute resolver understands the psychological needs and emotions behind the veil during the whole process of solving the dispute, the results will be more sustainable and efficient than ever. An integrated approach will always be helpful and more powerful when factors like personal feelings, mental influences, emotional responses, cognitive biases, social dynamics, etc play a crucial role in effective dispute resolution.

According to a survey by Gartner, Inc., employees who operate in human-centric work models—where they are seen as people, not just resources—are 3.8 times more likely to be high performers. Human-centric work models encompass three guiding pillars: flexible work experiences, intentional collaboration, and empathy-based management.<sup>2</sup>

## **II. HOW CAN LAW AND PSYCHOLOGY BE CONNECTED?**

When we try to understand psychology, the basic human understanding of it is interpreting the complex minds of humans and studying how the brain processes. Law and Psychology can be interlinked in various situations. Usually, psychologists are called upon when there are issues related to false confessions when lawyers are not able to interpret a criminal mindset, or when the accused are faking testimonies and various other situations. Introducing Factors of Psychology in a human-centric Dispute Resolution Process can influence the whole process and can also increase the scope of more efficient and satisfactory outcomes. The relationship between psychology when connected with law, becomes a fascinating and complex intersection that has captivated and grabbed the attention of various research scholars, practitioners, and the general public as well. It is an area of study where two seemingly distinct fields come together, creating a rich and dynamic landscape that demands exploration and understanding.<sup>3</sup>

As the times move forward, bringing changes to the way how disputes are resolved have to be developed and modernised according to the changing mindset of the people. Bringing in new and effective methods does not imply that traditional methods will start to fade. These new methods have to be carefully analysed and studied and drafted in such a way that they will compliment these traditional methods and introducing psychology to any and every legal

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<sup>2</sup> Gartner Research Shows Human-Centric Work Models Boosts Employee Performance and Other Key Talent Outcomes, .

<sup>3</sup> The intersection of psychology and law: Understanding the complexities of today's legal landscape, Legal Service India - Law, Lawyers and Legal Resources, <https://www.legalserviceindia.com/legal/article-12869-the- intersection-of-psychology-and-law-understanding-the-complexities-of-today-s-legal-landscape.html> (last visited Nov 19, 2024)

dispute will be a defining factor and a start to a completely new and developed way of Alternative Dispute Resolution methods.

Studies prove that when a person is felt that they are understood, they are more likely to agree upon the terms laid and are more satisfied out of the outcomes arising out of any discussion and to completely understand what a person is thinking, understanding their psychology plays a very important role.

Conflicts arising between people can be considered a natural phenomenon and is inevitable. Thinking of methods to completely erase conflicts is practically impossible. Several countries such as Uganda, Rwanda, Kenya etc have various methods of dispute resolution which helps them maintain social relationships and co-exist in peace and harmony. When these underdeveloped nations compared to that of India can introduce such diverse methods of solving conflicts amongst themselves, India having such experienced people in the conflict resolution field can consider introducing and implementing new means of solving these disputes instead of sticking to the same old traditional means such as basic mediation, conciliation and arbitration. When law and psychology can be connected, it opens a whole new world for the people to explore a completely new way to resolve conflicts between them. Law in India has always been practiced in very limited ways which mainly focus on courts providing justice to majority of these disputes. Other dispute resolution means have a low success rate in India due to various reasons which include lack of awareness, lack of legislations, overlapping of various laws. When certain settlement models such as the Priest and Klein's mutual optimism model is taken into consideration, these models have been prepared to predict comparatively high settlement rates but based on the statistics that have been gathered from real world data, the settlement rates are less than what was expected to arise out of such models<sup>4</sup>. The outcome not matching the expected results has various factors affecting it such as certain one-sided information which are not fully disclosed by the parties because psychological and emotional factors such as overconfidence, anger and various other factors drives their mindset to take the cases to trial where the parties and their legal representatives usually assume that they can get better results and damages.

These settlement models have both good and average statistics such as having an excellent success rate when it comes to tort cases in the United States but when these same settlement models are implemented in countries like Japan can be very low due to various social and

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<sup>4</sup> Yun-chien Chang & Daniel Klerman, Settlement around the world: Settlement rates in the largest economies, 14 *Journal of Legal Analysis* 80–175 (2022).

cultural factors meddling in between.

Considering psychological aspects when implementing settlement models have to be very carefully analysed because usually parties anchor themselves to their initial demands and are not keen on modifying them. Maintaining a mutual optimism mindset during the entire dispute resolution process while making sure that certain emotional and psychological factors of the parties such as ego, confidence, anger etc do not go out of balance can lead to the clients being more flexible with their demands thus leading to more efficient and satisfactory results.

### **III. PSYCHOLOGICAL FACTORS AFFECTING HUMAN MINDSETS DURING CONFLICT RESOLUTION**

Few of the major things that a common man would think of when they are asked as to what goes on in their brain during a conflict, they would comment on how their brain just creates a barrier to protect themselves and become completely defensive. This is the area where negotiators, mediators or any person who is in a position to solve a dispute has to broaden their mindset and try to analyse how the thought process of their parties is working. Understanding human psychology can be very complex because conflict comes with chaos in the brain and analysing their emotions can be a task. Humans are groomed by evolution to protect themselves whenever they sense a threat. In modern times, humans do not tend to fight like a badger with a coyote, or run away like a rabbit from a fox. But the most basic impulse is to protect themselves in an automatic and unconscious way<sup>5</sup>. Few of the core emotions that play a crucial role during a conflict can be anger, ego, confidence, defensive nature whereas few people who are emotionally strong have the ability to stay calm and solve a dispute without aggravating it.

As mentioned above, to practice and master the conflict resolution process one must completely let go of the goal of getting people to do what they want. Instead, one of the major solutions which can be considered is to first personally understand each party, how their emotions are interlinking with the situation, what are they expecting as an outcome out of the dispute and basic human nature is to be comfortable when the opposite person has the ability to properly listen and understand them. Introducing the concept of counselling or therapy before, during and after the whole process of conflict resolution can affect the outcomes in a very strong way.

Focusing on a human-centric approach aims to place mediators, negotiators or conciliators in

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<sup>5</sup> Calming your brain during conflict, Harvard Business Review (2024), <https://hbr.org/2015/12/calming-your-brain-during-conflict> (last visited Nov 27, 2024).

the centre of the dispute resolution process which will provide them with the scope of understanding and providing a very tailored means of resolution for the parties. In the generation where technology is taking over most of the situations, having a completely human-centric approach to dispute resolution will protect and enhance the settlement methods and also help humans co-exist even with various cultural and social differences.

#### **IV. THE FUTURE OF DISPUTE RESOLUTION: ADR WITH PSYCHOLOGY OVER LITIGATION**

Lawyers deal with various number of disputes on a daily basis and any legal system provides multiple means of solving these disputes which include arbitration, mediation, conciliation, negotiation, litigation etc. Providing multiple means can be a good option for the parties but might be chaotic for lawyers.

Promoting Alternative dispute resolution has its advantages and disadvantages. Choosing ADR over litigation can be the resort in the future due to the increasing number of disputes to avoid delayed justice and to avoid over burdening of courts. Litigation is usually considered the last option but various countries although having multiple means of solving disputes are struggling to keep up with the increasing number of cases because of the lack of knowledge about out of court settlements. People also generally think multiple times before settling for an out of court understanding with the knowledge that the efficiency is not that standard when compared to litigation.

Arbitration would always be a more private process with a less formal procedure and faster in speed than a court's. It is a hearing of both parties but whose verdict is binding by a third party. More and more, it has been understood to be favourable for the very maintenance of relations as well as the stress and hostility increased by most forms of litigation. Another dimension can then see psychological insights direct arbitration toward quite clear understandings of the emotional and cognitive bases driving conflict away from salient definitions.

This incorporation pertains to arbitration motivating the parties with their arrogance and emotions, including their cognitional biases. Those having training related to psychological principles will most likely enhance arbitrators' capacities to deal with complexities presented by human nature. It hence drains the dispute between parties towards the conversation of a more constructive and empathetic approach. The conclusion, then, may have legalistic soundness while tending toward completion of the emotional experience and perceptions of fairness and closure usually missing in court litigation.

The future of arbitration with a psychological can be focused in various legal fields such as family law, employment disputes, commercial disputes etc. In fact, one would see how

infiltration of psychology in family law would minimize the divorce and custody battle knives, making reconciliation easy. Psychological dimensions in employment disputes would cool down because of the reality check that is thrown at how these scenarios except harassment and discrimination occur in the workplace. Apart from that, even those technologies may serve further to provide such psychological tools as virtual mediation rooms or emotion recognition software to facilitate even better arbitration as forms of effective online dispute resolution possible and available to the parties engaged in arbitration.

It is going to be the possible forerunner to those who would engage into arbitration with an added barb of principles of psychology. One of the brightest predictors of the future when such instances should be transformed into relationships, healing, and building rather than just reconciliation of the human elements involved in a conflict. It would change our conceptualization of how and the way in which we think about dispute settlement and make it a lot more humane and effective too.

Introducing a human centric approach along with psychological factors can maybe reduce the gap that exists between parties and alternative dispute resolution methods. Litigation will always be an option for people but if you can settle it in another method which usually is cheaper, more efficient and if the factor of psychological management of clients is also involved, then the future can be seen clearly for lawyers, psychologists, counsellors and every other party legally involved in settling a dispute in an alternative method.

## **V. RECOMMENDATIONS**

### **(A) The “AOEE” method:**

To introduce a completely human-centric approach in dispute resolution, the “AOEE” settlement method can be broken down into four stages each for more efficient outcomes. These four stages include- Analysing, Originality, Evolution, Execution.

The first stage which focuses on analysing mainly aims to observe and understand the parties and the demands that have been put through by them individually, focusing on whether the demands of each party are reasonable enough for both the parties to come to a mutual understanding. The analysis stage also includes the consideration of emotions and the psychological factors of the parties which will create a map for the rest of the stages to be properly achieved. This stage helps the third person understand what the parties want out of the settlement, why they need it and the reason why that certain demand is being put forward. Emotional factors such as sympathy and empathy also have a key role in this stage which will make sure that the parties are not providing any asymmetrical data and through these emotions

the parties have to feel understood which will also be a benefit to their mental well-being to continue the rest of the process in a smoother manner.

The second stage of this process is originality. Mediators, negotiators, conciliators or any other third party solving a dispute should not restrict themselves in implementing already existing means of dispute resolution. The human brain automatically assumes that there are fixed means of solving disputes and only those means have to be implemented. When the first stage is creating a path by considering emotions and psychological conditions of the parties, the originality stage is when the third person has to take advantage of it and think of new solutions which can reduce stress and chaos in the remaining procedure. Once this limitation is eliminated by the dispute resolver, it opens up a completely different route to understand the parties and changing the method based on the situation is one of the key foundations of converting the entire dispute resolution process into a human-centric approach. One of the key takeaways mentioned in this paper includes the whole process of introducing a therapist and counselling before, during and after the process of dispute resolution which makes sure that the parties do not get ahead of their emotions and will also help the procedure to be smooth and help control their reactions.

The third stage of the method helps in the process Of Evolution. This is the stage where the dispute resolver has to link the ideas and plans that have been considered in the originality stage where they have to come up with new strategies to solve a dispute with practicality. The ideas should be analysed enough as to whether they are feasible or not and how effective they will be if introduced to the actual system. The evolution stage helps one understand how the parties will accept those ideas and also helps to understand how the parties might react with the introduction of new strategies and are these strategies practical enough or not. When a person is a dispute resolver, there are various legal norms that have be considered such as the Arbitration and Conciliation Act, the Civil Procedure Code, maintaining customer confidentiality etc. All these areas have to be carefully considered before going to the last stage of implementation.

The fourth and the final stage of the AOEE Method is implementation. This stage is where the dispute resolver has to combine the previous three stages where possible advantages and disadvantages have been focused on and understand how implementing this method will be efficient for the process of dispute resolution and develop existing strategies and refine them to provide more effective outcomes. Customer demands keep changing as the times develop and this method has to be kept updated to maintain its value and need in the process of dispute resolution.



The AOEE method if carefully studied and implemented has the potential to be the future of a more human-centric approach to dispute resolution understanding legal and psychological methods.

## **VI. CONCLUSION**

The legal aspects in a dispute resolution process are foundational for this whole activity as the processes of negotiation and dispute resolution are legally defined. They ensure that some level of security and certainty is brought about in the course of understanding within the precincts of law regulation. But law generally does not speak kindly to the emotional and cognition realms of conflict. This is indeed where psychology comes into the picture: it opens certain possibilities of generic empathetic and successful solution paths based on an understanding of motivations, biases, and sentiments involved in the parties to the dispute.

Psychology-informed negotiation or settlement would offer programs dealing with the mental/emotional state of people and establish communication-empathy-understanding channels for, it would be possible to have some sort of constructive, relatively at least, collaborative processes, less adversarial, less stressful, and most importantly, trustworthy. Thus, outcomes such as active listening, mediation, and interest-based negotiation will elaborate and sustain all welfare and interests of all conscious parties into a win-win outcome.

To conclude, a proper combination of both legal and psychological aspects will facilitate successful dispute resolution. Such a realization would humanize the approach and not merely consider legal questions, but also the profound psychological needs and concerns at hand. It would therefore make it possible to devise solutions that would be just, durable, and harmonious. In turns, bringing about a more equitable and compassionate society.

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