UNIT 6 APPROACHES TO CONFLICT RESOLUTION

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6.1 INTRODUCTION

Conflict resolution aims at the satisfaction of basic human needs, as it believes that the non-fulfillment of basic human needs is at the root of violent conflicts. This opens up space for 'facilitative' and non-violent solutions. Conflict is essentially a subjective phenomenon, and therefore its resolution must involve analysis and reconstruction of perceptions of beliefs (about) and attitudes towards, the other side, improving communication and facilitating the development of trust and cooperation between the hostile groups and individuals.

Gandhi too believed that conflict was the result of structural denial of human needs. Satisfaction of needs was thus imperative for conflict resolution. For Gandhi, conflict resolution entails a facilitated problem-solving process that is interactive, analytical and actively involves all the individuals and identity groups directly concerned.

Between the two extremes of avoiding conflict and responding to it with violence, societies and cultures all over the world have developed structured and active conflict resolution approaches to address actual and potential conflicts between individuals, groups and communities.

Aims and Objectives

After going through this Unit, you will be able to understand:

- The major western and some non-western approaches to conflict resolution;
- The process of applying these approaches; and
- The skills required for applying these approaches.

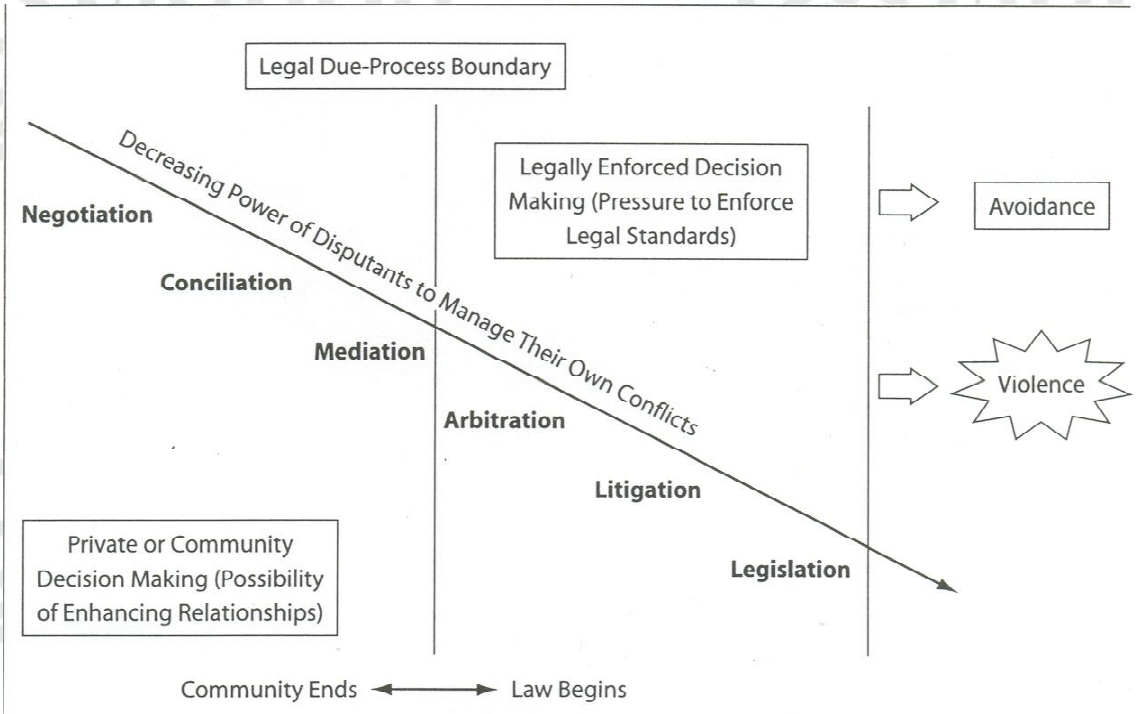
6.2 WESTERN APPROACHES TO CONFLICT RESOLUTION

Most western approaches to conflict resolution require the usage of a go-between or an intermediary. Heidi Burgess defines intermediaries (or "third parties") as people, organizations, or nations who enter a conflict with the aim of trying to help the disputants de-escalate or resolve it. Intermediaries can play various roles depending on the circumstance and the kind of help the disputants require from them (active or passive role). Sometimes the hostile individuals and groups may decide to resolve the conflict of their own initiative- by discussing the issues between themselves- without involving any intermediary. If the discussion does not work, one could move to the process of one to one *negotiation*. If the stakeholders are not able to work out a solution on their own, then they may take assistance from an intermediary. The intermediary may initially focus on the process of *conciliation*, where she/he has the limited role of focusing on reducing hostilities. Beyond this, one could move to the process of *mediation* and seek active assistance from the intermediary in exploring options and negotiating a settlement but the responsibility to decide on acceptable solutions is ultimately in the hands of the contending parties. One could next move to the process of *arbitration* where the arbitrator would behave like a judge, decide on the right and wrong and impose a decision. Adjudication is also a form of arbitration, wherein the *adjudicator* is the judge. Lastly, disputants have the choice of going in for litigation.

The facilitator is a person who leads a collaborative process in which individuals and groups with divergent views meet to reach consensus on a goal or to solve a problem. The role of a *facilitator* is less active than that of an arbitrator or mediator as a pure facilitator is responsible only for the process and not for the content.

Mediation and arbitration may seem to be a similar process but they are different. Although both arbitration and mediation involve a third party, mediation places the responsibility of deciding on acceptable solutions in the hands of the disputants, while arbitration places it on the arbitrator. Negotiation, mediation and facilitation involve more of individual and community decision-making, which ultimately aim at the possibility of enhancing relationships between the contending groups and individuals while arbitration, adjudication and litigation involve more of legally-enforced decision-making. So, in the latter case, the law takes over and the role of the individual and the community in decision-making becomes negligible. Thus, in arbitration, adjudication and litigation the power of the conflicting groups and individuals to manage their own conflict decreases and they have less control over the solutions in comparison to the processes of negotiation, facilitation and mediation. (*see Figure 1*)

APPROACHES TO HANDLING CONFLICT



Source: This diagram is adapted with permission from Community Boards, San Francisco, 415/552-1250, www.communityboards.org.

Figure 1

***Source**:* Simon Fisher *et al.: Working with Conflict - Skills and Strategies for Action,* New York: Zed Books & Responding to Conflict, 2000, p.18

6.2.1 Dialogue and Facilitation

Relationships are key to human existence. In relationships we experience differences – of views, beliefs, attitudes, values etc. Differences can be used as dividers to foster hatred, ill-will and animosity or they can be used as a connector to discover the underlying human unity, to create new partnerships, and to build peace. Gandhi also believed in the human unity structure at the level of social relationships, the structure to which all human beings belong and which must be preserved. If we choose to view differences as a way to build peace, the medium through which this can be done is that of *dialogue*. Simply speaking, dialogue means to sit and talk with each other especially with those we have differences. Talking together can however involve debating, discussing with a view to convincing the other, arguing for our point of view, examining pros and cons. But in dialogue, the intention is not to advocate but to inquire; not to argue but to explore; not to convince but to discover.

Creation of a safe space is intrinsic to dialogue- psychologically as well as physically- only when people feel safe will they be able to express their opinions freely. Secondly, the purpose of a dialogue is to learn from each other and to discover each other. Besides, usage of appropriate communication skills is essential in a dialogue. This would involve putting aside one's judgments and listening carefully and respectfully to the experiences of other people. Moreover, dialogue participants must be prepared, for sometimes hidden things surface—conscious or unconscious beliefs, perceptions, assumptions, fears—these hidden aspects increase the level of understanding of the participants. Additionally, there can be several ups and downs in a dialogue. It is important to stay through the hard

places—anger, frustration, emotional outbursts—and use them as learning opportunities. But most of all, dialogue should not be approached as a means to change others; rather dialogue participants must be willing to be changed by the whole experience.

If dialogue is a process or the *end*, the *means* through which this process is conducted is known as facilitation. Facilitation is a process of helping a group complete a task, solve a problem or come to an agreement to the mutual satisfaction of the people participating in the dialogue or discussion. A facilitator is responsible for conducting the process smoothly but she/he is not responsible for the content or the final product. Gandhi believed in the unity of means and ends, which is necessary for a just and peaceful society and dialogue and facilitation combine together to do just that.

In most organisations, people get into conflicts with others not because what decision was made but how the decision was made – who made the decision, by what method and by what level of majority. Decision-making, thus, lies at the core of building peace in group, community or organisational settings and facilitators can help a group make a decision.

In most democratic settings, decisions are made by voting. But voting means different things to different people, so it is important to clarify and agree well in advance on what percentage is required to pass a vote. This can range from 50 per cent to 60 per cent to sometimes 100 per cent or simple majority, two-third majority, by consensus or unanimously. The facilitator makes sure that the group agrees in advance on the percentage of vote. She/he also clarifies the term 'consensus' as people have different understandings of it (a decision in which all involved agree to support; even if it may not be the decision which all prefer is a consensus decision). A decision made by consensus is useful in any group situation, but in situations of conflict, it plays a crucial role, for people are often unwilling to be bound by a single vote or a single decision.

6.2.2 Approaches to Negotiation and Mediation

Negotiation and mediation as instruments of peaceful conflict resolution have existed since early history in Western societies but they were institutionalised as means of peaceful resolution of inter-state conflicts only in the 20th century.

The Western approaches to negotiation and mediation make a distinction between formal actors on the state level (governments and international or regional organisations) and informal actors on the civil society level (international or local non-governmental actors viz, religious institutions, research institutes, academics, former government officers, think tanks, or individuals). State level mediators or Track I use traditional diplomacy whereas civil society mediators or Track II use a variety of approaches.

States mediate with the outcome-oriented approach (traditional diplomacy), which identifies the representative leaders of the conflicting parties and brings them together to negotiate or mediate a ceasefire and a peace accord. This approach has been used as a major instrument in ending a large number of wars but is the focus of criticism, as it tends to concentrate solely on the top leadership and overlooks the root causes of conflicts. A variant of the outcome-oriented approach is Power Mediation. Power mediation has all the criteria of the outcome-oriented approach plus the possibility of use of power, including force.

At the Track II level of non-official mediation, the third parties are non-directive and they try to empower the conflicting parties to find their own solutions. These approaches are

long-term and they aim at rebuilding destroyed relationships between the conflicting parties. One of the most popular approaches at the Track II level is the problem-solving workshop. The aim of these workshops is to improve the relationship between the conflicting parties and to get at the root causes of conflicts. This is done by having a series of such workshops with the same target groups and mediators. The target groups are representatives of the conflicting parties who have access to the top leadership. The mediators here are usually a team of academic professionals with conflict resolution expertise or regional or technical expertise. States are critical of this approach on the ground that they are too long-term oriented and thus unable to stop wars.

The complementary approach aims to integrate Track I and Track II approaches as both of them make important contributions to conflict resolution. Here it is necessary to identify the appropriate actor and approach at a certain time in the conflict. Complementary approach tries to identify the most efficient mediators at different phases of escalation of the conflict.

6.2.3 Negotiation

As human beings we negotiate all the time: what to buy or not buy; how much to pay for the things bought; what to eat or not eat, what to do or not do etc. It is this simple and widely prevalent skill of negotiation that is used in conflict resolution as a strategy.

Negotiation is a process where individuals with shared and opposed interests, work out a settlement in order to come to an agreement. One has two choices while negotiating—go for a win-lose situation (adversarial or distributive approach) wherein one person will win while the other will lose—or go for mutual problem-solving wherein both the individuals or groups will try to maximise a joint outcome (integrative approach) which will result in a win-win situation (gains for both the disputing individuals or groups). The latter approach is preferable if the disputing individuals or groups have a stake in maintaining ongoing positive relationships with each other. Gandhi was also of the view that an approach to conflict that seeks defeat for one party is inconsistent with conflict resolution.

Negotiation normally works in the following way:

1. Disputing individuals and groups share information about the situation they are in (one at a time without any intervention by the other);
2. They express their feelings (grievances) about the problem at hand or the situation they are in;
3. Disputants state their positions (what they want) and give reasons that underlie their positions and feelings;
4. They listen and communicate their understanding of the other individual's or group's positions, feelings and reasons (leading to collective analysis of the conflict);
5. Disputants invent three or more possible solutions or options for resolution;
6. They try to find a common ground that will be acceptable to all and can be sustained (they work on the details of the solution – *what* will be done, *who* will do it, *when* will it be done, *where* will it be done and finally *how* will it be done); and
7. Agree and shake hands on the solution that maximise mutual benefits and also agree to observe and monitor commitments and arrangements (the agreement can be a formally signed document).

In the initial phase of negotiation, parties maintain their stated *positions* (what we say we want). But an expert negotiator will shift the disputing individuals or groups from *positions* to *interests* (what we really want) and finally to *needs* (what we must have). The negotiator will do so by asking the *why* question to the disputants. In most cases, disputants have not thought through as to 'why' they want to do a particular thing or not do it at all. The *why* question thus forces them to think about their interests and needs.

Certain principles should be followed in the process of negotiation. We must separate the people from the problem. Mostly, relationships get entangled with problems. One should thus pay attention to maintaining a long–term positive relationship between the disputants and try to affirm the same symbolically and otherwise. Also, it is advisable that one is hard on the problem but soft on the people (Principled Negotiation). This means that we should attack the problem at hand but treat the other side as human, having emotions and values. Gandhi did exactly that when he refused to see the British as evil; however, he viewed the British policies and agendas as such.

Communicating effectively during the course of negotiation is a must and that involves listening actively and respectfully and speaking for oneself and not about others. Focusing on interests and not positions is necessary as positions are more conflicted than interests. Additionally, one should generate multiple options for resolving a problem. However, the process of generating options should be separated from the process of evaluating each option, which will be the next step. The idea is to look for an option that meets the interests and needs of the disputants. The final solution must be legitimate (it must be based on some objective criteria or principles). We should try to look for alternatives as well – what is the Best Alternative To a Negotiated Agreement (BATNA). And last but not the least, the commitments made during the process of negotiation should be realistic.

6.2.4 Mediation

Sometimes people in conflict find it difficult to negotiate one-on-one, especially if issues are complex, emotions are intense, or stakes are high. In such cases, mediation becomes an option for managing conflicts constructively. Mediation is a process through which a neutral third person facilitates integrative negotiation between disputing individuals and groups. Although mediation is facilitated by a third person, it is a voluntary process where the disputing individuals or groups work out their own solutions, and make informed decisions to resolve their own disputes; the mediator does not make decisions for them. Most mediators, however, are professionals who are unknown to the parties. Sometimes, it is difficult to find any one person who is trusted as impartial and is acceptable to both the sides. In such cases, a team of two or more co-mediators can work well so long as each of the sides feels that the team is balanced in its totality. In case of a co-mediator, it is necessary to check with him/her – who will take the lead role; how the task will be divided.

Proper groundwork is a must for successful mediation: selection of a mediator/s; ensuring the participation of disputing individuals and groups; and preparation by the mediator/s. Mediators need to be aware of their strengths and weaknesses as well as that of their co-mediator, in case there is one. Additionally, mediators need to remember that the long-term goal of building relationships and empowering people to address systemic injustices are sometimes more important than reaching a specific agreement.

Mediation approaches differ from one setting to another as each culture and community is different. However, mediation generally is a four-stage process, which begins after

advance preparation and getting the parties to the table. The first step is the introduction stage wherein the mediator provides a safe place for the conflicting individuals and groups to begin a face-to-face discussion. The mediator introduces himself/herself to the conflicting individuals and groups. She/he emphasises the goal of the meeting as well – it is a voluntary process for them to reach a mutual agreement. He/she then describes his/her role in the process – to help them talk to each other and not to judge or give answers. The mediator makes sure to describe the process – each side will take turns to speak; both will agree on the basic issues and will work with these one at a time with their suggestions for resolution. Gaining commitment to the ground rules like not interrupting, confidentiality and speaking respectfully is also very important at this stage. The mediator should ask the conflicting groups and individuals to come up with the ground rules (if the rules come from them, they will also feel morally responsible to be bound by them) and not make suggestions initially; in case they are unable to do so, the mediator can then suggest some of the ground rules and gain commitment from the participants for them.

The second stage is of storytelling, which allows the disputing individuals and groups to express their concerns, explain the situation as they understand it, and gain a sense of the other side's view. It is the duty of the mediator to ensure that the participants speak directly to each other and not via or through him/her (coaching direct dialogue is a must). The mediator will get the perspective of each side one at a time and offer his/her paraphrase identifying each side's hopes and concerns. The mediator in his/her paraphrase should also acknowledge the hurt, anger and frustration of the people in conflict. He/she will then summarise the main issues of the conflict and the common grounds and positive intentions, if any (identifying the common ground is essential as people in conflict do not think that they have anything in common between them).

Problem solving is the third stage of the mediation process. The key here is to build a sense of joint ownership of the problems (they are in this together – they got into the conflict together and now they have to make an effort to get out of it together) by helping identify the issues that separate them and generate, evaluate, and negotiate options for resolution. In this context, Gandhi had also opined that instead of separating the two sides, a conflict should actually unite them because their incompatibility is common. The mediator will now pick up one issue at a time and get the conflicting groups and individuals to work on it (usually start with the easiest to resolve, so that the disputing individuals and groups get the feeling that it is possible to resolve issues between them). Here the focus of the mediator should be on trying to move the conflicting individuals and groups from their *demands* (positions) to their underlying *interests*. She/he should then encourage them to generate options for resolution. The options for resolution will then have to be evaluated one by one. Once all the options have been evaluated, the disputing individuals and groups then need to select the best option. Each time there is a ray of hope–-any constructive move is made or progress takes place—the mediator must acknowledge and affirm them.

The last stage of mediation is that of agreement where the key is to ensure or seek a sustainable agreement. The mediator should work out the terms of a fair and sustainable agreement, including ways to deal with the problems or issues that may arise later during the course of implementation. In order to do this, she/he needs to address the specifics of the agreement – *what* will be done, *who* will do it, *when* will it be done, *where* will it be done and finally *how* will it be done. We need to be realistic, clear and simple in this stage while maintaining a balance between the responsibilities given to the disputants. The agreement should be just and should contribute to the dignity of the disputants. It

should also leave an opening to tackle the issues that may arise in the future. Last but not the least, the mediator must ask the individuals and groups to state their intent to support the agreement. The agreement can be put in black and white (is mostly the case in the western setting) and the participants can sign it formally or it can be an oral agreement (non-western settings) as well. In case no agreement is reached, the mediator should affirm the level of understanding reached; remind the participants of the confidentiality agreement and offer to meet again.

6.2.5 Arbitration and Adjudication

In arbitration, the disputants take their dispute to an impartial third party, who provides them with a decision to end their conflict. It may take varied forms (depending on whether or not arbitration is freely chosen by the parties; whether or not parties have agreed to be bound by the arbitrator's decision etc.) and can be applied to different kinds of circumstances (public or private arbitration). Arbitration has some of the advantages of mediation such as privacy and flexibility while on the other there is a prospect of an authoritative decision. Arbitration hearings can be formal or informal depending on the nature and seriousness of the dispute.

Adjudication refers to a settlement by a court. In civil cases, one party (petitioner) goes to court to demand something from another (defendant). The court then makes a decision on the issues in dispute, unless a negotiated settlement occurs first. Here the framework for considering cases is adversarial, court procedures are highly formal and lawyers are an essential part of this process. Moreover, this is an expensive way of resolving disputes.

6.2.6 Essential Skills for Facilitation, Negotiation and Mediation

Certain skills are critical to the processes of negotiation, mediation and facilitation. The first and foremost important quality that mediators, negotiators and facilitators need to possess is to communicate effectively. It is said that mediators are only as effective as their listening skills. That is why good listening is at the top of the list of skills needed for mastery in learning mediation. Good listening helps in building rapport and trust between the mediators and the disputants. A negotiator too needs to listen effectively and check for meaning constantly. A facilitator can show respect and compassion only by being a good listener.

Paraphrasing is another important skill. Through a good paraphrase the mediator communicates understanding to each of the disputants. It also helps in bringing forth more reflective responses from the contenders. Besides, it slows down the conversation between the individuals and groups and serves as a buffer between their statements. The ability or quality to summarise well is essential. A mediator uses summary to review the key points that have been made by the disputants. This helps in communicating the sense that they understand the entire situation being presented. Summarising can also be used by the facilitator to summarise the content of a discussion every few minutes as a way of keeping the discussion focused.

Monitoring body language is also a skill. Paying attention to the verbal and non-verbal behaviour makes it possible to watch for contradictions and to discuss them with the contenders. Moreover, by learning to observe and understand the body language of others, mediators can gather useful information about how the participating individuals and groups are responding. Every culture has its own body language and mediators, negotiators and facilitators need to be aware of the same. Additionally, intermediaries need to be good at problem solving. Mediators and negotiators should possess the quality of

generating a variety of possibilities/options/alternatives, picking the best course of action and developing an implementation. A facilitator should be able to help the group define a problem, analyse it and generate options for resolution. They should also know the art of narrowing down options, for example by clubbing together more than one option or removing the impractical ones.

Lastly, third party interveners need to be flexible. They should have the capacity to shift from problem-oriented activities to people-oriented activities to process-oriented activities and vice-versa, when progress is blocked in one of these areas. This means that if disputing individuals and groups are stuck on the problem or the conflict, then the third party should shift the discussion to the people, that is, the relationship aspect. If the discussion gets stuck on the relationship aspect, then the intervener should shift it to the process, such as what should be discussed first, what should be taken up later and so on. Thus, one should be flexible enough to go back and forth between the three aspects of problem, people and process. While undertaking this course of action, one should be prepared to deal with emotional outbursts and difficult behaviour. To conclude, intermediaries must possess a positive outlook and be fair, impartial and objective in their dealings with the disputants.

6.3 NON-WESTERN APPROACHES TO CONFLICT RESOLUTION

A variety of non-western approaches to conflict resolution are used in different parts of Asia and Africa. In the African country of Rwanda, the *Gacaca* is chaired by elders, generally wise old men, who lead group discussions that result in an arrangement that is acceptable to all the participants. In Burundi, the *bushingantahe* or the Council of Notables plays an important role in adjudicating local disputes and reconciling individual persons or families. Parts of Afghanistan and Pakistan follow the *Jirga* system, which is an assembly of elders that takes decisions by consensus on matters dealing with individual and community disputes.

In India, the mediative approach has been the primary means of dispute resolution at the community level. The *Panchayat* system in which a respected village elder(s) assists in resolving community disputes has long been an accepted method of conflict resolution. The traditional panchayat system comprised of intervention by third parties unconnected with the conflict, with a view to overcome the antagonism of the disputants. The aim here was to re-establish communication between them and the conflicting parties were persuaded to talk to each other; the mediator was only a medium. However, in contrast to the western approach, the mediator here is a known and respected third person who is trusted by the disputants to assist in the resolution of their conflict. Sometimes, however, mediations would actually turn into adjudication – decisions would just be imposed on the disputants.

6.3.1 Satyagraha

The Gandhian method of conflict resolution is known as “satyagraha,” which basically means “a relentless search for truth and a determination to reach truth”. Satyagraha, as conceived by Gandhi, is a dialectical process that is creative, constructive and centrally concerned with human needs.

To resolve conflict, Gandhi employed a combination of three basic approaches. First of

all, Satyagraha implied cooperation with the opponent *as a person* but noncooperation with the opponent's *role* in the context of the social structure (Johan Galtung called this process as "decoupling"). Gandhi saw conflict as built into social structures and not into people. Hence, he made a clear distinction between the actor and the deed: "Hate the sin and not the sinner." Thus the essence of Gandhi's approach was to preserve the people while systematically demolishing the evil structure.

Second, Gandhi was willing to compromise when basic principles had not been challenged. He was thus ready to cooperate with the opponents, whenever possible throughout the struggle, in order to build relationships and to create the basis for a sound post-conflict life. Third, Gandhi sought synthesis or transcendence that was mutually agreeable and satisfactory to all the parties and superior to any one of the original positions with the aim of creating new choices and restructuring the opposing elements of a conflict. This would include correction in the attitudes, reversal of behavioural polarisation patterns and removal of the goal incompatibility.

The aim of Gandhian Satyagraha is neither to harm the opponent nor to impose on them a solution against their will; rather, it seeks to help the parties achieve a more secure, creative and truthful relationship. Besides, Satyagraha is not used against someone; it is done *with* someone. The central idea being that moral appeal to the heart and conscience are much more effective than violence or pain. In Gandhi's view, conflict is the result of structural denial of human needs and conflict resolution thus requires a method of struggle that satisfies three conditions: it must destroy need-denying structures, create need-satisfying structures and respect the needs of the conflicting parties during the struggle itself. Satyagraha was Gandhi's attempt to devise a method of struggle that satisfied all the three conditions.

6.4 SUMMARY

In this unit, we have primarily looked at the major western and some non-western approaches to conflict resolution. It can be concluded from the above discussion that both western and the Gandhian approach to conflict resolution believe that the denial of human needs causes conflict and damages relationships. Both agree that restoring relationships through facilitated methods of problem-solving is thus the main aim of conflict resolution. The conflict resolution process must target a change in the attitude, behaviour and the structure (context).

6.5 TERMINAL QUESTIONS

1. What are the essential features of dialogue? What is the role of the facilitator in a dialogue?
2. Describe the western approaches to negotiation and mediation.
3. What is negotiation? What are the principles of negotiation?
4. Discuss the process or stages of Mediation.
5. Distinguish between arbitration and adjudication.
6. Who is an intermediary? What skills are essential for intermediaries?

7. Briefly discuss some of the non-western approaches to conflict resolution.

8. What is the Gandhian approach to conflict resolution? What are the similarities and differences between the major western approaches to conflict resolution and the Gandhian approach to conflict resolution?

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