

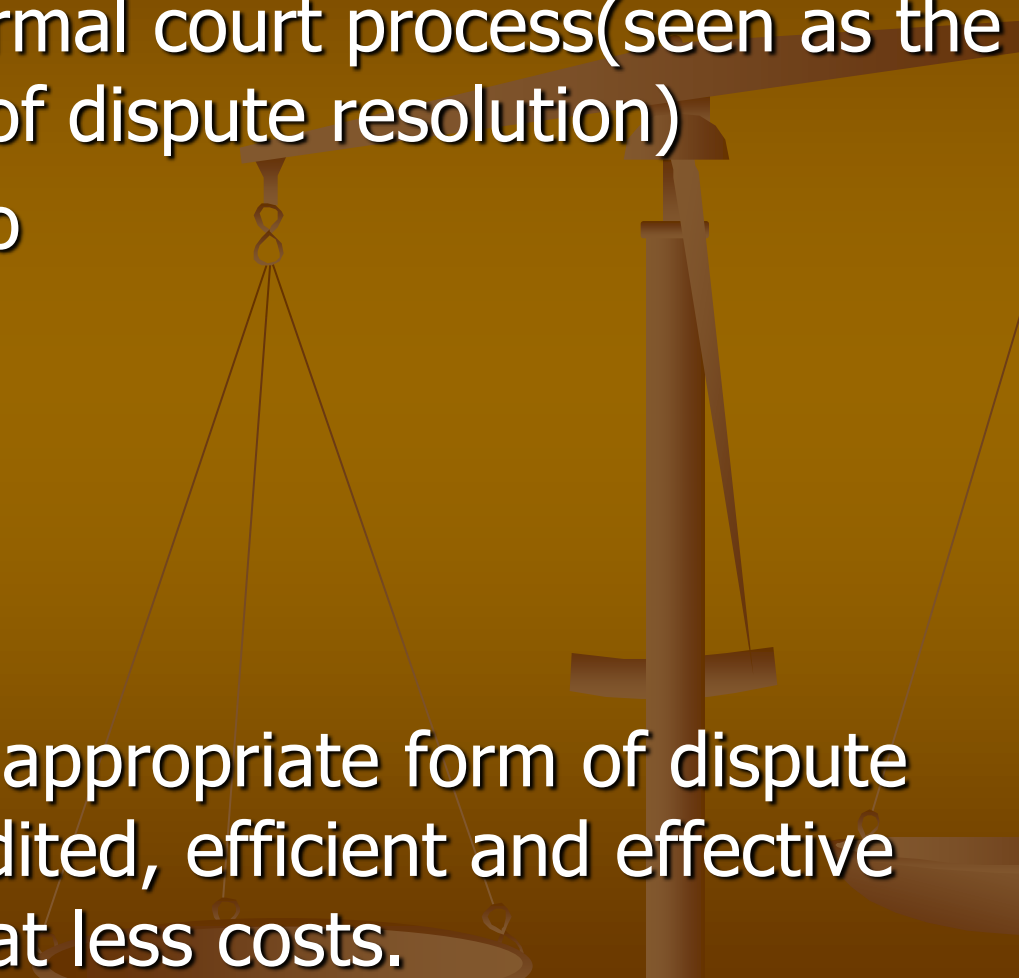


How can ADR assist business commerce and industry?

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What is ADR ?

- Previously ADR stood for Alternative Dispute Resolution
 - Alternative to the formal court process(seen as the only accepted form of dispute resolution)
 - Now it is changing to
 - Appropriate; or
 - Active; or
 - Assisted
 - Dispute Resolution.
 - It is about finding an appropriate form of dispute resolution for an expedited, efficient and effective resolution of disputes at less costs.
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So what are the forms of ADR ?

- Adjudication –Adjudicator making a decision that is enforceable eg traditionally Courts and Tribunals but now internal departmental or employer grievance and disciplinary processes enforced by employers;
- Arbitration – private determinative process;
- Case appraisal - investigate and appraise a case with provision of advise on desirable outcomes and means of achieving it;
- Case presentation (Mini trial) – evidence and arguments presented on the basis of which advise on the facts of the dispute is presented and in some cases with possible desirable outcomes and means of achieving that;

ADR Defined?

- Collaborative practice – Lawyers other practitioners working together to find a solution collaboratively;
- Conciliation – identification of issues, develop options, consider alternatives and endeavour to reach an agreement. Facilitator may have an advisory role on content of dispute and outcome but not determinative;
- Conferencing – parties and their advocates meet and discuss the issues in dispute with a view to finding a solution. May combine facilitation and advise;
- Early neutral evaluation – parties present at early stage of dispute evidence and arguments to evaluator who makes key determinations in the dispute and the most efficient way of resolving the dispute but without determining the facts;

ADR Defined ?

- Expert Appraisal – an expert on basis of expert knowledge and experience of subject matter investigates a dispute and provides advise on the facts and possible desirable out come and means of achieving that;
- Fact finding – Fact finding mission without determining issues between the parties;
- Indirect negotiations – parties using third parties or agents (lawyers) to explore options make offers to and from to find solution;
- Mini trial – evidence and arguments presented on the basis of which advise is provided on facts, desirable out comes and means of achieving that;

ADR Defined?

- Private judging – member of a judiciary engaged to provide opinion as to how a court would determine a dispute if submitted to the Court; and
- Senior Executive Appraisal Mediation (SEAM) – Two senior executives of two disputing organisations working with an experienced mediator hearing presentations on the dispute from own employees and then meeting with mediator to resolve the conflict.
- Mediation – Not new subject or concept. Let us talk about it.
- Mediation similar to conciliation in that neutral third party (mediator) helps parties to identify issues in a dispute, develop options, consider options and alternatives and endeavour to reach agreement.