

Adaptability of ADR

One of the strengths of alternative dispute resolution (ADR) has always been its adaptability. The capacity to adapt and to be adapted springs directly from the fundamental characteristic of all ADR disciplines as products of party autonomy. If parties were not able to fit dispute resolution solutions to their needs and the necessities of their disputes, both commercial and private, then ADR would lose the better part of its attraction to a large portion of users. But while ADR is adapted in more beneficial ways, it must always ensure justice. In this issue, the adaptability of ADR and its limits take centre stage.

Amid ongoing global shifts in working and living patterns brought about by the covid-19 pandemic, ADR's adaptability to the demands of the new reality have received considerable attention. But as Peter Ashford in his article analysing this question as framed in the 2020–2021 Vis Moot Problem and Nika Madyoon in her winning student essay show, the enticements of ADR's adaptable nature cannot supersede the ultimate considerations of enforceable resolutions and the assurance of justice. Charterjee and Uddin similarly note Online Dispute Resolution's (ODR's) attractiveness as a cost and time efficient dispute resolution mechanism facilitated by increasingly sophisticated artificial intelligence and data analytics. ODR may be an area of ADR uniquely adapted to advancing technology, yet some of the same questions of justice that give pause when looking at virtual proceedings persist.

ADR's adaptability is not merely mechanical, however. Dispute resolution procedures can be tailored to specific substantive areas where there may be unique challenges. Anthony Connerty looks at arbitration as a means of resolving disputes over national treasures and works of art while Seung-Woon Lee examines the options and implications of adapting the current investor state dispute settlement system to a standing court.

The adaptability of ADR is limited only by the overriding pursuit of justice in the outcome. Woven through the articles in this issue is the notion that while adaptations are made, the resulting ADR processes must ensure justice. The

broader and more important question to which each author seeks to provide another piece of the answer is this: Just because ADR can, does that mean it should?

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