

Summary

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Summary

In the Philippine setting, the use of court system as dispute resolution mechanism has been characterized by lengthy and costly proceedings, rigid technical rules and highly adversarial process, not to mention a low level of public trust and confidence arising from perceived corruption among judges and court personnel. Current judicial reforms identified alternative dispute resolution (ADR) as the key to decongesting court dockets to solve the problem of delay in adjudication of controversies submitted before the various courts. Such renewed interest in ADR not only underscored its advantage of providing a more effective means of addressing certain issues requiring specialized knowledge but also afford a less confrontational method more attuned to Filipino values and culture. Court-mediated and court-referred mediation is presently being institutionalized to promote and encourage out-of-court systems of dispute resolution for certain types of legal controversies.

However, any study on ADR as practiced in the Philippines today is faced with an inherent limitation due to the dearth of statistics and relevant data in the absence of monitoring, evaluation and documentation in almost all institutions concerned in ADR. The potential of ADR for enhancing access to justice by our citizens can be intensified by giving it importance in law education and its institutionalization through legislation.

In the three areas of focus of this study on dispute resolution --consumers, labor and environment-- the view has been expressed that there may be no single rule for the viability of ADR mechanisms and that historical, social and economic factors may account for lesser acceptability of out-of-court systems of conflict resolution as compared to judicial adjudication in cases where government intervention and control will best secure specific rights and interests. Thus, in consumer disputes, an effective dispute resolution system should be able to correct the gross imbalance of power between the individual consumer and the company seller with the latter's greater access to product knowledge and legal and financial resources. At the same time, the individual consumer must be empowered with knowledge and decision-making skills and properly organized into groups for better implementation and enforcement of laws on consumer protection. In the case of labor disputes, while collective bargaining and voluntary disputes are the preferred methods of conflict resolution, compulsory arbitration will continue to play a significant role because of a long period of reliance on government as

the final arbiter of labor disputes and the faith of the parties in the government. On the other hand, the low level of unionizing coupled with fear of consequences in times of economic downturn, is a major factor for non-availment of collective bargaining as a mode of dispute resolution. As to environmental issues, the Philippine experience is marked by the prominent nexus between protection of the environment and people's access to a particular resource. ADR mechanisms provided in recent environmental laws which primarily relate to such access to a resource, may not prove to be successful in resolving environmental disputes as Filipinos do not rely purely on such express provisions of the law to settle disputes (preferring existing modes of dispute resolution); aside from the need for greater transparency in government actions, broad consultations with various stakeholders and ensure neutral ADR provisions which do not favor certain parties.

In sum, the prospects of ADR in providing more effective avenues of settlement of legal controversies would depend not only in crafting the relevant legal framework and institutionalizing adequate measures but also in the extensive and meaningful education of our people to make out-of-court systems work for their greatest benefit and advantage.