

II. Alternative Dispute Resolution (ADR)

Overview of ADR

Specialised tribunals to deal with specific disputes had been established in Malaysia long before the problems with the court system surfaced. These tribunals are established as courts or centres of arbitration. Examples are:

- (a) The Kuala Lumpur Regional Centre for Arbitration, established in 1978.
- (b) The Industrial Court (first established actually in 1948).
- (c) The Public Services Tribunals.
- (d) The Special Commissioners of Income Tax, established under the Income Tax Act, 1967.

Subsequently, as the idea of ADR began to gain ground and it became clear that an alternative to the conventional court system was not only needed but a valuable and practical means for the resolution of a growing number of disputes, particularly in commercial cases, other mediation centres were established to cater for mediation in specific disputes, such as the Insurance Mediation Bureau (1992) and the Banking Mediation Bureau (1997). The latest to join the ever growing list of ADR centres are the Tribunal for consumer complaints (1999), the Bar Council's Malaysian Mediation Centre and the Copyright Tribunal (2000).

Usage of ADR

From statistics available, it appears that society has responded well to arbitration and mediation. For example, the number of cases heard by the Insurance Mediation Bureau rose from 375 in 1998 to 483 in the first 8 months of 1999,⁵ while the Banking Mediation Bureau handled about 144 cases in 1999.⁶ As for the Tribunal for Consumer Complaints, its success is reflected in the growing number of cases it handles in just a short span of time since its establishment.⁷

⁵ The New Straits Times, 12 September 1999.

⁶ *ibid.*

⁷ See Part 2 below.

Recent Developments

Minister in the Prime Minister's Department responsible for law announced recently⁸ that ADR will be implemented in selected civil cases after amendments have been made to the Rules of the High Court and Rules of the Subordinate Courts. The civil cases for which ADR have been identified are disputes pertaining to alimony, disputes within the family or between individuals, and insurance, road accidents and property claims. This move is being implemented to reduce the large backlog of civil cases pending in the courts.

Under the proposed new Rules, civil cases will only be accepted for filing in the High Court and subordinate courts after the parties concerned have exhausted all other avenues of settlement. High Court and sessions court judges and magistrates can also recommend cases before them for ADR, especially those at the preliminary stages of hearing.

⁸ The New Straits Times, February 5, 2002, p. 12.