AUSTRALASIAN DISPUTE RESOLUTION JOURNAL

Volume 33, Number 4

2025

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ARTICLES

Judicial Intervention in the Arbitral Process and the Fair Hearing Rule: Is Materiality Necessary in Commercial Arbitration? – *Eric Beale*

This article examines the materiality doctrine as a threshold for judicial intervention in the arbitral process, focusing on its implications for the hearing rule in commercial arbitration. The doctrine mandates that Australian courts should only set aside arbitral awards for breaches of natural justice if the breach could have realistically altered the outcome. As a high threshold, the materiality doctrine prioritises foundational values of arbitration such as efficiency and finality. This article argues that while the materiality doctrine enhances arbitration's efficiency and predictability, its strict application risks undermining the fairness and dignity inherent in the hearing rule. It concludes that a balanced approach, incorporating elements of natural justice alongside utilitarian objectives, can better reconcile arbitration's dual goals of procedural integrity and commercial expediency. This article emphasises the need for nuanced, context-sensitive applications of procedural fairness standards. 213

Restorative Justice in Australia: Is It Time for the Establishment of National Standards? – *Peter Condliffe*

Despite some substantive early progress over 20 years ago Australia does not have a coherent set of national guidelines for restorative justice practice. However, the recent convergence of interests between those seeking wider reform and those working in the contexts of family violence and clergy abuse has again raised the possibility of this occurring. This article provides a synopsis of some of the background and current issues occurring in this field. 224

Hybrid Dispute Resolution in New Zealand: A Project Overview – *Dr Grant Morris*

Hybrid dispute resolution is an important part of the New Zealand dispute resolution landscape. While consensual third-party dispute resolution is synonymous with mediation, there are many closely related approaches which should be acknowledged and analysed. While definitional studies in jurisdictions such as Australia provide a fascinating comparison, the New Zealand experience is unique and requires its own definitions. This article

provides a report from a work-in-progress project analysing hybrid dispute resolution. The hybrid forms are here to stay, and both complement and challenge traditional mediation approaches. The difference between mediation and other similar third-party, consensual, dispute resolution forms is becoming increasingly blurred. 234

Role of Judge-Mediator Balancing Power Disparity in Bangladesh: An Empirical Study – *Md Atiqur Rahman and Jahirul Alam*

Mediation, facilitates mutually consenting parties to resolve disputes without imposing any binding decision on them. This article analyses how judge-mediators in Bangladesh minimise the prevailing power gap between the parties reaching successful outcomes of mediation. By observing 10 judge-led mediation sessions, this study found that judge-mediators in Bangladeshi civil courts strive to minimise power disparity by employing an evaluative mediation approach, shielding the vulnerable side from the stronger opponent during the mediation sessions. This research makes two contributions by placing Bangladeshi experiences in the context of global scholarship: theoretically, it advances discussions on how mediators can balance voluntariness and fairness in cases of severe power imbalances, and empirically, it presents evidence from a global south jurisdiction – Bangladesh – that has received little attention in mediation studies. 244

BOOK REVIEW

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