

AUSTRALASIAN DISPUTE RESOLUTION JOURNAL

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CASE NOTES

- Identifying all members of a class action prior to mediation, and mediation/arbitration media watch** – *David Spencer* 207

ARTICLES

- International arbitration in Australia: 2015/2016 in review** – *Albert Monichino QC and Alex Fawke*

This annual article updates readers on the most important developments in international arbitration in Australia in the past year. It surveys legislative, case law and other developments since 1 September 2015. 211

- The future of dispute resolution: Online ADR and online courts** – *Michael Legg*

Advances in the capability of technology have seen greater interest in online dispute resolution (ODR) which holds the promise of significantly improving access to justice for many people, including disadvantaged groups. The aim of this article is to provide an introduction to ODR with a focus on design considerations. This article draws a distinction between online alternative dispute resolution (OADR) and online courts. While OADR has enormous freedom in relation to design, online courts are constrained by the nature of the judicial function. However, both are able to benefit from a clear understanding of the ramifications of the design considerations for effective dispute resolution platforms. 227

- The art of using power as a tool of influence in mediation** – *Mohamed Sweify*

Mediation as a dispute settlement method is in a process of dynamic evolution that presents distinct challenges to those who provide services as counselors, advocates, mediators and mediation institutions. However, mediation as a process is not too easily handled. There is an art to handling the mediation process. One aspect of this is the art of using power as a tool of influence in mediation. Topics in this article include how does the mediator use his or her power to influence the parties, the process, and the outcome. Are there any tools for using power; does this harm the mediator's neutrality; and the insights drawn from the analytical views presented herein. 236

BOOK REVIEW

- The Mediators Handbook (Third edition)** by **Ruth Charlton, Micheline Dewdney and Geoff Charlton** – *Paul Lewis* 244

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SPECIAL FEATURE: CELEBRATING 30 YEARS OF ADRA

ADRA President’s Address 2016 – Katherine Johnson

On 30th June 2016, delegates met at a conference to celebrate the 30 year anniversary of the founding of the Australian Dispute Resolution Association (ADRA). What follows is an edited transcript of the ADRA President, Katherine Johnson’s, address to delegates. The President welcomed the attendees and thanked those who contributed to ADRA. This article focuses heavily on ADRA’s initiatives during her presidency. 249

Australian Dispute Resolution Association: Its history and its people – Anne Ardagh

The Australian Dispute Resolution Association (ADRA), an association for dispute resolution practitioners and others with an interest in dispute resolution, celebrated 30 years with a conference in Sydney on 30th June 2016. ADRA was formally established in 1987 to lead, promote and enhance the practice and development of dispute resolution in Australia. This article chronicles the history of ADRA, which is a history of its people: the members, volunteers, board members and the countless hours they have contributed over the last 30 years. 252

History and philosophy of nonviolence: Towards an inclusive dispute resolution (DR) curriculum – David Ardagh

Normally, dispute resolution (DR) takes place against the background of law and order provided by states. In grim civil and international war contexts, or corrupt states, that background is absent, and heroic courage can be needed to conduct DR. This article outlines a spectrum of positions on Philosophy of Nonviolence (NV) and NV resistance action, from unconditional non-violence (UNV), labelled UNV, through conditional positions like the “just war” permissions position (CNV); to merely pragmatic prohibition of violence (PNV). It sketches a history of major contributions to NV practice reflecting the spectrum. It then correlates this moral spectrum with one of rationality, ontological commitment to God, an afterlife for human souls, and religious beliefs. It is suggested that while UNV is hard to rationalise on the basis of temporal happiness in the grim cases noted above on natural scientific naturalistic grounds, it becomes more plausible on theological/metaphysical grounds, which are still “rational” in a secondary sense. 260

International perspectives of dispute resolution – Dr Paul R Gibson

On 30th June 2016, delegates met at a conference to celebrate the 30 year anniversary of the founding of Australian Dispute Resolution Association. This article is based on a presentation given by the author at the conference. The author began by acknowledging the traditional owners of the land and chronicling his own extensive history in the dispute resolution field. This article focuses on the author’s perspective on dispute resolution usage, training and process design in Australia and internationally. 268

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