

Journal of Judicial Administration

Volume 12

February 2003

Number 3

CONTENTS

Dispute Resolution in India: Judicial Performance and the Rise of Alternatives to Courts

Andrew Phelan 121

The Indian judicial system, with its common law origins and more recent constitutional basis, reflects doctrines and principles familiar to Australians, especially judicial independence, separation of powers and adversarial processes. However, the system is struggling to remain relevant. Generally, Indian courts have not met community expectations or the needs of litigants. In this context, uniquely Indian alternatives to courts (called Lok Adalats) have been developed. Lok Adalats are increasing in importance and relevance, drawing on links to cultural values in Indian society.

The Reality of Civil Justice Reform: Why We Must Abandon the Essential Elements of Our System

G L Davies 155

Reforms made so far to our civil justice system have, for the most part, accepted as the basic tenet of that system that the best and fairest way of resolving a dispute is by a contest between competing adversaries. Among those reforms, only ADR has been inconsistent with that tenet; and it has been, by far, the most successful of them in reducing cost and delay. That fact, and an increasing awareness of the inadequacy of our system to produce a truthful and fair result, will cause that tenet to be abandoned and

a more radical reassessment of that system. This article seeks to explain why.

Book Review

Law on the Internet, by Cate Banks and Heather Douglas.....172