ALTERNATE TO ALTERNATIVES:
CRITICAL REVIEW OF THE CLAIMS OF ADR

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Abstract

Means of resolving disputes have always been a major concern for all legal systems. They operate under the legal system in the shadow of legal systems or detached from the legal system.

This working paper will attempt to map the different forms of dispute settlement mechanisms so as to locate Alternate Dispute Resolution (ADR) within it. The claims of legitimization of ADR will be critically analysed to see whether the justifications tendered for ADR mechanisms can stand ground. The working paper will trace the development of ADR with special focus on India. It intends to pick up an argument that alternate forums established in India is a creation of alternate to alternative forums.

The paper will evaluate the claims like; ADR being informal, quick, efficient, inexpensive and as a means to relieve the courts from the phenomena of docket explosion. The paper expects to develop an argument that creation of alternatives to ease the pressure on the judiciary is a misconceived notion and is treating the symptom than the root cause that the solution lays elsewhere.

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