

Dispute Resolution for Microfinance Disputes

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I. Introduction

A **Purpose** for this Presentation:

In order to know a desirable Dispute Resolution Scheme for Microfinance Disputes

Examine:

Problems in Transnational Litigation

Merits of Alternative Dispute Resolution

More Merits of Online Dispute Resolution

II. Problems in Transnational Litigation

Litigation = An Ultimate Dispute Resolution Scheme

If a Plaintiff brings a lawsuit, a defendant has to argue in the lawsuit. Otherwise he will lose.

A judgment can be enforced.

But...

II. Problems in Transnational Litigation

Problems in Litigation:

Time-consuming

Appellate Courts

Lack of Flexibility

Much Costs

Local Lawyers

II. Problems in Transnational Litigation

Problems in Transnational Litigation:

Which States' Court ? -Jurisdiction Issues-

Transnational Service

Transnational Taking Evidence

Language

Neutrality -Judges' Nationality-

Choice-of-Law Issues

Transnational Enforcement of Judgments

III. Merits of ADR

A Recent Trend of using **ADR**:

Dispute Resolution Schemes other than
Litigation

(Alternative Dispute Resolution)

Decision Making Scheme: **Arbitration**

Amicable Solution Scheme: **Mediation**

Complains Handling

III. Merits of ADR

Arbitration: Substantially Same as Litigation, But ...

No Appellate Body

Flexibility

No Need for Local Lawyers

No Jurisdiction Problem

No Formal Requirements for Service

Possible to use Foreign Language

Neutrality -Multi-national Arbitral Tribunal-

Transnational Enforcement –NY Convention- 8

III. Merits of ADR

Mediation as an Amicable Solution Scheme:

Try not to make a winner-loser relationship

Try to keep a good relation between the parties

A mediator:

encourages two parties to make a settlement agreement

or sometimes proposes his settlement plan.

III. Merits of ADR

Complaints Handling as an Amicable Solution Scheme:

Try not to make a winner-loser relationship

Try to keep a good relation between the parties

No third-party as mediator:

Prepare a communication tool for two parties to voluntarily make a settlement agreement

III. Merits of ADR

But...

Especially for a Cross-Border Disputes,
Additional Procedural Costs are needed.

A serious **Obstacle for a low-value Disputes.**

IV. More Merits of ODR

ODR: Online Dispute Resolution

No one has to move even in a Cross-border Case
Use IT in Communication for Dispute Resolution

ex. Complaints Handling:

ECC-Net, CCJ-Net

Arbitration (Adjudication)

ICDR, Pay Pal, UDRP

IV. More Merits of ODR

UNCITRAL ODR WG:

Try to establish Uniform ODR Rules

Negotiation > Mediation > Arbitration

Try to minimize procedural costs
for a low-value dispute

V. Applicability for Microfinance Disputes

Microfinance Disputes:

At least, need to minimize procedural costs
for a low-value dispute

ADR should be desirable compared with Litigation

Amicable Solution should be included to keep a
relationship between the parties

A more advanced scheme of ODR should be used?

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