Dispute Resolution for Microfinance Disputes

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I. Introduction
II. Problems in Transnational Litigation
III. Merits of ADR
IV. More Merits of ODR
V. Applicability for Microfinance Disputes
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
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
Arbitration: Substantially Same as Litigation, But ...
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.
Complains 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
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. Complain 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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