

Book Review: The Multitasking Judge - Comparative Judicial Dispute Resolution.



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We find ourselves, particularly in Queensland, in a climate of rapid legislative change. There are more laws and new laws than ever before. Most people have the luxury of remaining unaware of quite how many until they find themselves entangled with the law. Many lawyers and lay persons actively question the efficacy of our current dispute resolution systems. The complexity and cost now involved with modern legal dispute resolution mean a Rolls Royce is often used to deliver bread.

This book observes that these concerns are relevant to judicial and legal systems worldwide. It attempts, in a scholarly way, to analyse and compare different judicial and dispute resolution systems from both the practical and jurisprudential viewpoints. Is the point of a judicial system to provide a just and efficient outcome? Is it to provide a timely and proportionate one? Or is it to have one that is respected and accepted by the participants? Or those who are lucky enough to remain blissfully aware of it in everyday life?

Of particular interest is the comparison among systems that actively embrace “Judicial Dispute Resolution”. This term was coined to refer to the overseas practice whereby the assigned Judge actively participates in mediation and settlement procedures in an effort to enable the parties to reach their own resolution. The systems mainly considered are those in China, the Netherlands and in Alberta (Canada). Each applies that context within a different cultural, political and historical framework. Disputes can be family, commercial or anything in between.

This book will be of most interest to any practitioner, academic or judicial officer who is curious to know how other jurisdictions approach these fundamental questions of dispute resolution. It would also be of interest to any person involved in law reform, legislative reform or procedural reform. It contains carefully prepared summaries, comparisons, conclusions and statistics.

One fascinating and familiar looking graph shows ‘peak trials’ happened in the US in the 80’s for the States and the early 90’s federally. Is it because litigants have lost faith in the cost and delays of trials and choose ADR instead or because Judges funnel the parties there before trial? Or a bit of both?

A table shows the different types of JDR matters experienced by Canadian lawyers. 66% of the JDR matters in which they are involved are an evaluative mediation involving an active Judge. 36% feature the Judge as a passive mediator. 29% are a non-binding mini-trial and only 11% involve a binding determination by the Judge.

This book is not for a reader looking for everyday practical application of the contents but it opens the mind to whether everyday practical effort is being exerted in the best system for all parties in all proceedings.