A Dispute System Design Perspective on the Future Development of CDR

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Dispute system design: a model for CDR

- The current landscape for CDR
- The concept of ‘designing redress’
- An overview of a DSD model for CDR
The current CDR ‘landscape’...

Ad hoc and piecemeal development

Wide variety of mechanisms and institutional designs

Lack of principled justification for divergence in many areas

Minimal guidance and standards within the ADR Directive
Redress design

Designing redress is a constitutionally significant activity.

It is an activity undertaken at many levels by many different players.

There has been a lack of principle in the development and design of redress.

There is a need to pay particular attention to what we do when ‘designing justice’.

Bingham (2008), Bondy and Le Sueur (2012)
A DSD model for CDR

Gill, Williams, Brennan and Hirst (2015 – forthcoming)
Key design choices

1ST ORDER CHOICES
System Design Choices
- Jurisdiction
- Governance
- Funding
- Accessibility
- Dispute Resolution Philosophy

2ND ORDER CHOICES
Process Design Choices
- Process options
- Process architecture
- Technology architecture
- Powers and scope
- Decision making attributes
Conclusion

The ADR Directive offers the opportunity to rethink existing approaches to design

Competent authorities and others will need to recognise, understand, and evaluate different CDR approaches

As new schemes are created and existing ones are reviewed, there is an opportunity to harmonise design approaches

We propose a systematic model for DSD, which allows designers clearly to understand and justify their design choices