

Alternative Dispute Resolution in the Settlement of Environmental Disputes in South Africa

Authors : M. van der Bank, C. M. van der Bank

Abstract : Alternative Dispute Resolution denotes all forms of dispute resolution other than litigation or adjudication through the courts. This definition of Alternative Dispute Resolution, however, makes no mention of a vital consideration. ADR is the generally accepted acronym for alternative dispute resolution. Despite the choice not to proceed before a court or statutory tribunal, ADR will still be regulated by law and by the Constitution. Fairness is one of the core values of the South African constitutional order. Environmental disputes occur frequently, but due to delays and costs, ADR is a mechanism to resolve this kind of disputes which is a resolution of non-judicial mechanism. ADR can be used as a mechanism in environmental disputes that are less expensive and also more expeditious than formal litigation. ADR covers a broad range of mechanisms and processes designed to assist parties in resolving disputes creatively and effectively. In so far as this may involve the selection or design of mechanisms and processes other than formal litigation, these mechanisms and processes are not intended to supplant court adjudication, but rather to supplement it. A variety of ADR methods have been developed to deal with numerous problems encountered during environmental disputes. The research questions are: How can ADR facilitate environmental disputes in South Africa? Are they appropriate? And what improvements should be made?

Keywords : alternative dispute, environmental disputes, non-judicial, resolution and settlement

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