

WG: Civil Justice and Dispute Resolution

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Working Group - Civil Justice and Dispute Resolution

Litigation behavior survey	ADR
User satisfaction	Mediation
Disincentive to use	Training
Sociodemographic differences	Ethics
Gender differences	Arbitration
International comparison	Intra-Organizational Dispute Resolution Systems
	Grievance
	Ombuds
	Whistle Blower

Examples

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Mediation in Japan

How mediation can help improve access to justice

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Topics

- Recent topics on mediation and Access to Justice
- Legal Framework for Promoting the Use of Private Mediation
 - Its Development and Challenges

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Mediation and Access to Justice

What is today's date in Japan?

The Tohoku earthquake and tsunami occurred on 11 March 2011.

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Recent topics on mediation and AtoJ

Sendai Bar Association's ADR for the Tohoku earthquake resolved **more than 500 disputes** Tohoku earthquake (March 11, 2011)

- Landlord-Tenant
 - Neighborhood
 - Consumer (e.g. repair of wall and roof)
- Subsequent Kumamoto earthquake (2016) and Kanazawa earthquake (2024) other earthquakes and natural disasters



User-friendly procedure

e.g. free assistance in the preparation of the filing

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Recent topics on mediation and AtoJ

Zoom mediation spreads in the Corona disaster

- Convenience increased with evening and weekend procedures
- Particularly noticeable efforts in the area of **divorce mediation**
- Further expansion of use due to the Joint Parental Responsibility Law (2024)

Boom of **ODR** by venture type ADR organizations

- Use of ICT for small claims

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Private mediation in Japan

Judicial ADR

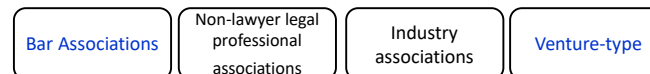
- Court-hosted mediation in Japan has a long history
- Kankai - Conciliation (1875-1890)
- Chotei - Conciliation (1922-present)

Administrative ADR

- Non judicial governments run various forms of ADR (e.g. Labor, environment, consumer)

Private ADR

- **Relatively new**
- ADR Promotion Act of 2004



(e.g. securities, banking, automobile, consumer electronics...)

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ADR Promotion Act of 2004

- In Japan, mediation is treated as the exclusive practice of lawyers as **legal services**
- ADR Promotion Act of 2004 allows non-lawyers to participate
- However, the certification process required by the ADR Promotion Act requires assurances that lawyers will be involved in the proceedings
- ADR Promotion Act of 2004 was amended in 2023 to allow enforceability
- The reality is that in the ADR Promotion Act, government activities are limited to the certification process, which does not ensure **sufficient resources** to foster private mediation institutions.

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Challenges of Private Mediation in Japan

- **Training** programs are not well positioned within the mediation system
- As a result, management is loose in **maintaining quality** of proceedings
- Unclear areas remain in matters related to Unauthorized Practice of Law (UPL) (e.g., does paid consultation before private mediation fall under UPL?)
- Private mediation, including venture-type mediation, is in the process of growing but has little experience

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Conclusion

- Private mediation in Japan offers user-friendly procedures through the use of technology and pro bono efforts after disasters.
- Nevertheless, it has not been able to overcome key challenges and lacks a strong presence in society.
- Efforts to improve practices at each institution as well as effective policies by the government are expected.
- It is also important to review local efforts from an international perspective. In other words, **international collaboration is needed.**

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