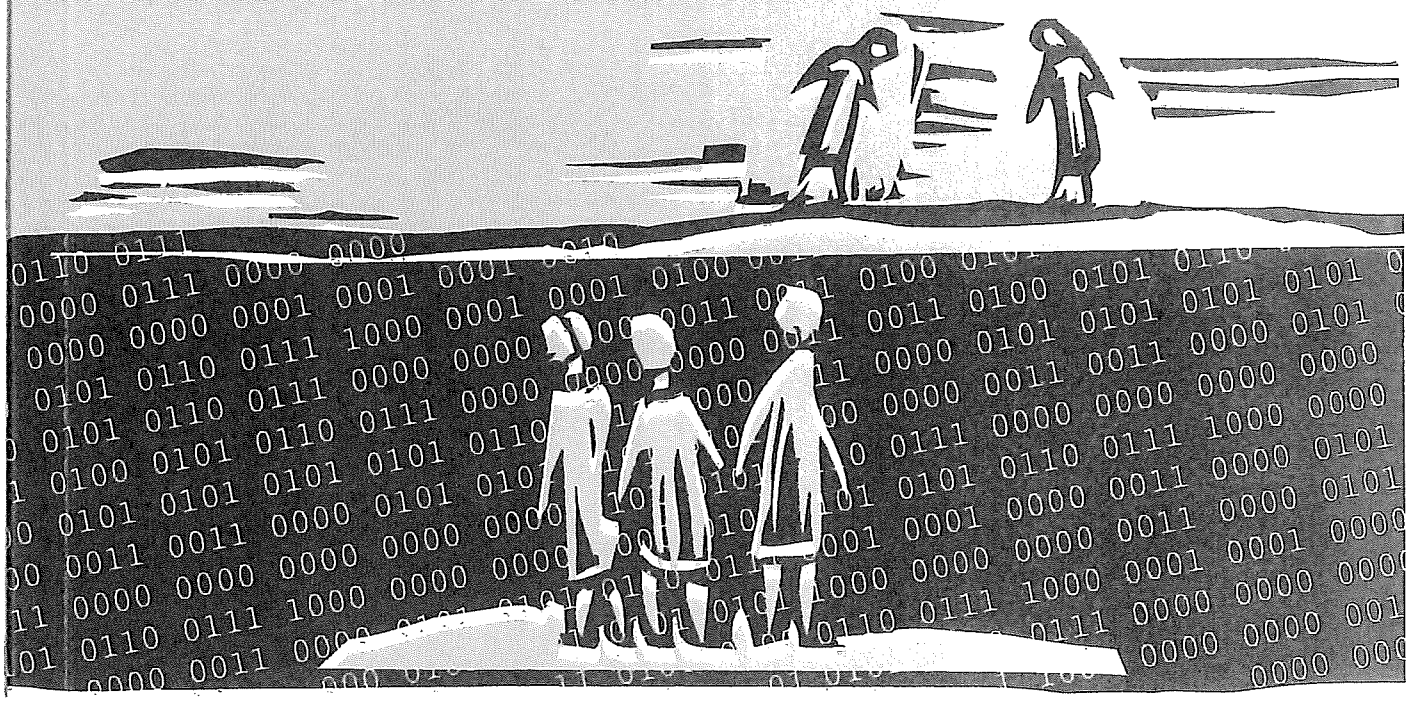
International Journal of Online Dispute Resolution



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Aims and Scope

Being a highly selective and peer-reviewed periodical, the Journal encourages comparative, interdisciplinary, international, empirical and theoretical approaches and analysis in contributions. The Journal will bring together Internet industry leaders, government officials, members of the judiciary, banks and payment systems, consumer groups, the legal profession, arbitration experts, ODR proponents, and the academic and technical communities. It will provide a forum on how to efficiently implement online dispute resolution systems that will harmoniously coexist with current legal and alternative processes to increase access to justice. The goal of the Journal is to contribute to establishing an institutional framework of future cross-border ODR systems.

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Equal Access to Information & Justice: A Report on the Online Dispute Resolution (ODR) Forum 2017

The Huge Potential of ODR, Greatly Underexplored (Paris, France, 12 and 13 June 2017)

Mirèze Philippe[*]

Abstract

This article is a brief report on the two-day conference on 'Equal Access to Information & Justice, Online Dispute Resolution', organized by the ICC in Paris on 12-13 June. Over 160 lawyers, magistrates, academics, researchers, dispute resolution organizations and online dispute resolution providers, from over 30 countries and representing each continent debated about the use of technology for the resolution of all types of disputes. The 60 speakers explored the future of dispute resolution and the role of technology in all legal fields, from mediation in conflict zones, to commercial and civil disputes. The huge potentials greatly underexplored were discussed. It was noted that much remains to be done to educate users and convince state courts, dispute resolution organizations, merchants and other services' providers to offer access to justice online. Efforts must be undertaken to allow users seek remedy in an affordable way. The solution for an equal access to justice is to make such access available online. The issues of ethics and standards were also discussed, as well as the increase concern of data protection and cybersecurity. The recording of the discussions on the panels are available on the ICC Digital Library (ICCDRL).

Keywords: ODR, equal access, justice online, information online, ICC.

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1 Introduction to the Conference

A two-day conference on 'Equal Access to Information & Justice, Online Dispute Resolution', hosted by the ICC,[1] took place in Paris on 12-13 June 2017.[2] Over 160 lawyers, magistrates, academics, researchers, dispute resolution organizations and ODR providers, from over 30 countries and representing each continent, attended. The conference was jointly chaired by Ethan Katsh, co-founder of the National Center for Technology and Dispute Resolution (NCTDR), and Mirèze Philippe, Special Counsel at the ICC International Court of Arbitration and co-founder of ArbitralWomen.

Alexis Mourre, president of the ICC International Court of Arbitration opened the conference, describing ODR as perhaps the most relevant topic on the future of dispute resolution and stating that "we are indeed in the infancy of what we will see in the years to come". Technology now offers several means and allows among others to save time and costs in arbitration, "as there is a real prospect that in the near future there will no longer be needed to organise physical hearings, and why not use holograms for hearings instead of travelling", he added. Katsh noted that it was remarkable "for the President of the ICC Court to say that there is no more relevant topic, given what we started with two decades ago".

Mourre's speech was followed by inspiring words from Mohamed Abdel Wahab, Founding Partner & Head of International Arbitration at Zulficar & Partners Law Firm, and one of the vice-presidents of the ICC International Court of Arbitration, Diana Paraguacuto partner at NGO Jung & Partners, who organized the very successful Paris Global Pound Conference (GPC) on 26 April 2017,[3] Colin Rule the former director of ODR for eBay and PayPal, and co-founder of Modria with Chittu Nagarajan (which recently merged with Tyler Technologies).

Abdel Wahab stated that

> we no longer speak of technology and online dispute resolution as a luxury or a by-product. In ODR we think of technology as an integrated use of artificial intelligence through dispute resolution processes not only for resolution but for avoidance of disputes.

1 See ICC website for the details: <https://iccwbo.org/event/equal-access-information-justice-online-dispute-resolution/>.

2 The report of this conference was first published on Kluwer Arbitration Blog: 'The Huge Potential of Online Dispute Resolution Greatly Underexplored', 11 & 12 September 2017: <http://kluwerarbitrationblog.com/2017/09/11/equal-access-information-justice-huge-potential-online-dispute-resolution-greatly-underexplored/> and <http://kluwerarbitrationblog.com/2017/09/12/equal-access-information-justice-huge-potential-online-dispute-resolution-greatly-underexplored-ii/>. See the programme annexed at the end of this publication. The full programme, powerpoints and videos are available here: <www.arbitralwomen.org/Portals/0/Events/2017-06-12-13%20Programme%20ODR%20Conference_FINAL.pdf?ver=2017-06-05-201559-787>. Some of the PowerPoint presentations are available on this page: <https://onedrive.live.com/?authkey=%21ADWaa7jucornHoc&id=DB68BCF1160FB256%212087&cid=DB68BCF1160FB256>. Readers may find many interesting articles and information, including about ODR conferences on the ODR website: <http://odr.info/>.

3 Global Pound Conference Blog (GPC): <http://globalpoundconference.org/>.

While Paraguacuto, pressed for a more progressive approach, quoting Mark Zuckerberg, she reminded the audience that

> ideas do not come out fully formed, they only become clear as you work on them, you just need to get started. It is good to be idealistic but be prepared to be misunderstood.

She indicated that the GPC in Paris attempted to think differently about dispute resolution and that this could not be achieved without a chapter on ODR.

Rule referred to Silicon Valley, where it is common to say that there are four stages to a new idea.

> The first stage when you announce a new idea, people ignore you. The second stage, they make fun of you. The third stage, they argue with you, and they finally tell you at the fourth stage that they always knew you were right.

"The good thing about ODR is that we see that we are now entering the fourth phase", he said, "with all the progress we have made and all the ODR meetings, we are still at the beginning".

In her opening remarks, the author pointed out that organizing the 17th ODR edition in Paris was essential, Paris being among the most important places of arbitration in the world with its long history and wealth of experience in dispute resolution. The Paris courts and the ICC have often been innovators in the field, the ICC was also a pioneer in building the NetCase platform to give parties and arbitrators access to their cases online. However, France has not yet succeeded to move entirely to the digital world in resolving all types of disputes online like Singapore. Therefore, it seemed vital to bring the debate about using technology in dispute resolution to Paris and to demonstrate that using technology for access to justice is not science-fiction but reality, and may help to find other avenues to prevent and resolve all types of disputes.

Twenty years ago, Benjamin Davis, who was the author's colleague at the ICC at that time, organized the first conference in Paris on the topic of technology in dispute resolution and how to fast-track arbitration by using technology. Ben was one of the pioneers in this field and a pioneer in bringing the ICC in the era of technology. This is the second time that the ICC organized a conference on technology in dispute resolution, and this time with the Online Dispute Resolution Forum or ODR Forum. The ODR Forum has been gathering around the world since 2002, to share experience about projects undertaken and platforms being built.

Diversity criteria are meaningful to the ICC and seeing speakers from all profiles with a wide regional diversity, and an equal representation of male and female speakers, is a testament to this. The author asked women present in the room to stand up, showing that women made up more than half of the audience in the room, demonstrating that female practitioners in dispute resolution and in ODR exist, contrary to a common perception. She also paid tribute to ODR pioneers who considerably contributed to this field since the mid-1990s and invited

those present to stand.[4] Most of the eminent pioneers were present. It is important to recognize the people who have made ODR possible. Although ODR is at its infancy, the room could sense that ODR has a history on which to build to continue progress.

The ODR 2016 conference in The Hague, organized by Jin Ho Verdonschot, examined whether ODR could help courts improve access to justice. After having concluded that indeed ODR can assist in improving access to justice, this year's topic focused on why equal access to information and justice is essential. While the topic in itself is nothing new and is the basis of human rights, the author said that when individuals and firms do not benefit from access to justice, this equates to a denial of justice. Raising awareness and finding concrete tools that may help overcome unequal access to information and justice is everyone's concern. The author added that, today almost everything is available online except justice, which continues to be denied to millions of people who cannot afford going to courts, or who are disabled or in remote places with no means to seek remedy. After nearly 70 years of progress in technology and telecommunications, it is high time that both public and private justice offer a fair and simple access to justice around the globe, in order to resolve civil and commercial disputes, as well as some criminal disputes as suggested by the first Malaysian cyber court specializing in hearing cyber criminal cases, including bank fraud, hacking, falsifying documents, defamation, spying, and online gambling.[5]

The author concluded that ODR is still underexplored and has the potential to significantly increase access to justice across all legal jurisdictions. We cannot stop progress, so why not join the process and make online justice happen.

François Zimeray, ambassador of France in Denmark and former human rights ambassador gave a keynote speech about human rights. He stated that putting ethics on the market in general can be a huge leverage for improvements in human rights. We live in a global world with an increase of exchanges but also of inequalities. There is a lot of analogy between my mission in human rights and the work you are doing in dispute resolution: mediation is 50% law and 50% diplomacy. He added that what is being developed in ODR is impressive and opens a lot of perspectives in dispute resolution for human rights and we are at the beginning of something that is extremely important.

The second keynote speaker, Sanjana Hattotuwa, special advisor at the ICT4Peace Foundation,[6] joined via Skype from Sri Lanka. He spoke about the connection between business and human rights, highlighting the impact of technology on the way people access information and engage politically, stating that data

4 See the list of pioneers in the programme annexed to this article or click here for the original version: <www.arbitralwomen.org/Portals/0/Events/2017-06-12-13%20Programme%20ODR%20Conference_FINAL.pdf?ver=2017-06-05-201559-787>.

5 *See* <www.nst.com.my/news/2016/09/169883/malaysias-first-cyber-court-begins-operations-today>.

6 ICT4Peace Foundation: <http://ict4peace.org/>.

is key to the transformation of dispute resolution, especially when looking at factors such as gender in political conflict resolution, which can play a huge role.[7]

The 60 speakers[8] explored the future of dispute resolution and the role of technology in all legal fields, from mediation in conflict zones, to commercial and civil disputes. They explained why and how information and communication technologies (ICTs) offer increased access to information and justice, and demonstrated concrete examples. Field experts coming from both the public and private sectors have discussed innovative applications of ICTs and ethical principles and standards of ODR systems.[9]

2 Panel Discussions

The first panel, chaired by ambassador Zimeray, explored how "Promoting the use of ICTs in the face of justice, violence, discrimination and denial of human rights" can be translated into opportunities to reduce injustice as well as prevent and resolve conflicts. Three programmes were presented: a programme to stop violence against women, 'Everywoman Everywhere';[10] a programme for refugees in Greece, 'ODR4Refugees';[11] and a programme to give access to justice to those suffering from homelessness and poverty in Argentina, 'ODR Latino America'.[12] Using devices in these programmes has allowed refugees to learn about their rights and access such rights.

In recent years there have also been notable achievements in courts using ODR. Graham Ross, chair of the panel on 'Why are certain courts living the ODR revolution and what will it take to get the courts and the legal profession to engage?', identified ways in which change can be accelerated. He said that online court processes should not try to emulate existing processes, which often tend to be designed for use mainly by lawyers, but be novel, simple and intuitive for self-represented parties. Ross advised involving judges in system design and encouraged courts to speed up implementation, by using existing technology and services rather than feeding an army of developers to build from scratch. This panel also shared the experience of digitized courts in France, Jordan and the Netherlands.

The following panel, conducted by Fabien Gélinas, addressed the issues of 'Government and public sector platforms in civil conflicts' and presented public sector's programmes from Brazil, China and the United States. The panel

7 Natasha Mellersh's blog on 'The Paris ODR Conference – When Law Meets Tech', Global Pound Conference Blog, 20 July 2017: <https://blog.globalpoundconference.org/2017/07/20/the-paris-odr-conference-when-law-meets-tech/>.

8 *See* footnote no. 2.

9 The PowerPoints that were presented at the conference are available on this page: <https://onedrive.live.com/?authkey=%21ADWaa7jucornHoc&id=DB68BCF1160FB256%212087&cid=DB68BCF1160FB256>.

10 Everywoman Everywhere presented by Petra Butler: <http://everywomaneverywhere.org/>.

11 ODR4Refugees presented by Petros Zourdoumis: <https://www.youtube.com/watch?v=z2xIKYDesbs>.

12 ODR LatinoAmerica presented by Alberto Elisavetsky: <http://odrlatinoamerica.com/>.

explored the potential and the challenges of government-sponsored ODR. Procedural laws are increasingly favourable to amicable dispute resolution in many jurisdictions such as in Canada, said Gélinas, but they also tend to emphasize private initiatives and the importance of private innovations. We see a lot of public-private partnerships on the horizon, he added. Gélinas presented programmes mixing private initiatives and public services to settle consumer disputes and co-ownership disputes; the platforms are provided by the Cyberjustice Laboratory at the University of Montreal[13] that he co-founded.

The following panel, chaired by Abdel Wahab, on 'Corporate in-house legal process innovation to default ODR policies and practices', discussed what corporates can currently do in-house with the means available to them to resolve disputes, and whether they see online dispute services as a useful tool and why. Three corporate in-house counsels from Cisco, Airbus and Cofco presented the users' experience and agreed that online tools to settle disputes have become indispensable. They need processes that are swift and much less costly, while concentrating their efforts on their businesses as opposed to wasting time and energy on resolving disputes through traditional processes. It was also recognized that ODR may help addressing misunderstandings before they escalate to disputes. Ebay's very successful dispute resolution service was built on and followed a pilot project led by the NCTDR at the University of Massachusetts. Therefore, pilot projects may be the way forward to build platforms in cooperation with corporations so that both expertise join forces to offer a service that is still missing on the market. ODR will allow saving money and making money.

Benjamin Davis moderated the panel on 'Consumer and civil disputes: do the existing systems offer means of free access to justice or access at low-cost?' and presented the experience of consumers in the EU, which benefits from an ADR directive. The panel also discussed the ODR regulation that complements the ADR directive, and which is meant to put in place a European ODR platform.[14] It is intended to allow consumers and merchants from EU countries to settle disputes online. It was noted that there is a clear institutionalization of the process of ODR consumer programmes in the EU and an increasing deployment of public function that goes beyond private dispute resolution. Cooperation between the industry and public regulators is expected.

The last panel of the first day, on 'Technology used by dispute resolution organisations', shared the experience of the ICC, CEDR, the Camera Arbitrale di Milano and the Russian Arbitration Association. The chair Mark Appel noted that institutions are uniquely qualified and are in an ideal position to make ODR work. They listen to parties and respond with systems that are efficient, and they maintain the quality and the competency. The problems regarding ODR are that successful implementation requires organizational leadership and behavioural change, he said. Systems also need to be as easy to use as picking up a pen. The panel also noted that everything is online except justice. Building platforms is not

13 Cyberjustice Laboratory: <www.cyberjustice.ca/>.

14 European ODR platform: <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home.show&lng=EN>.

rocket science; it requires expertise in the mechanism of the service to be offered, competent engineers; realism and pragmatism are the order of the day. It also requires dedication, patience and to take risks without which no progress can happen. There is a real expectation that technology should be used for any business including dispute resolution. Without an efficient case management system it would be impossible to deliver the work in most organizations. It was also noted that using online platforms for mediation was boosted by the EU directive. Finally, ODR implementation requires feedback and education.

The next morning was dedicated to ethics and standards, which started with a panel on 'Ethics and ODR systems design', chaired by Leah Wing, co-Director of the NCTDR. The panel explored ethical principles and standards for ODR[15] and specific challenges and opportunities created by the application of artificial intelligence (AI) to dispute resolution. AI and big data magnify challenges and opportunities for access to justice through ODR, said Wing. Multidisciplinary collaboration and stakeholder engagement will enhance creation of ethical and transparent monitoring and accountability mechanisms, she added. There are too many people who cannot afford lawyers and would like to be able to use legal services but there are not enough resources to provide legal services for everyone, so technology is a solution. Given that ODR encompasses a broad range of technology, methods, purposes, and applications, we need to consider what types of ethical guidance may be universal, and what is the best way to provide ethical guidance for particular forms of ODR.

The panel on 'Artificial intelligence and expert systems in ODR, predictive justice, data collection and analysis, privacy, cyber security' was chaired by Catherine Rogers and presented an innovation on data collection with Arbitrator Intelligence,[16] project highlighting the role of information and technology in improving the arbitrator selection process. Like Arbitrator Intelligence, Dispute Resolution Data[17] was short-listed for the GAR Awards in March 2017.[18] The panel also explored the topic of predictive justice, which is a promise for predictability, transparency and to have more equality before the law.

'Governing the field of ODR, standards, practices' was the last panel addressing issues related to regulation of the field of ODR as these issues are becoming one of the focus of attention. What these standards should be and how they might differ with the ethics of the ADR field were discussed. The moderator Daniel Rainey addressed the difficulty of implementing standards for ODR in legal environments, outlined the benefits of creating ODR standards for business process improvement, and noted the potential differences in creating standards for e-commerce systems and standards for use by practitioners engaged in more traditional ADR work. The panel raised concerns about introducing ODR into court

15 Ethical principles and standards for ODR: <http://odr.info/ethics-and-odr/>.

16 Arbitrator Intelligence: <www.arbitratorintelligence.org/about/>.

17 Dispute Resolution Data: <www.disputeresolutiondata.com/>.

18 *See* article published by Lucy Greenwood, Catherine Rogers, Mirèze Philippe and Michael McIlwrath on 'The winner of 2017 GAR Awards for best innovation?: Transparency & Diversity', Kluwer Arbitration Blog, 12 March 2017: <http://kluwerarbitrationblog.com/2017/03/12/the-winner-of-2017-gar-awards-for-best-innovation-transparency-diversity/>.

systems and indicated that people engaging in such work should be prepared for strong resistance. There is a need to take advantage of intelligence systems whether they are systems that decide or assist the parties in making a decision.

After having discussed access to justice and redress systems during the first day and a half, the next panel presented 'Online dispute resolution platforms, providers and mechanisms'. The panel, moderated by Jeff Aresty, presented various platforms to demonstrate that ODR is possible for any type of dispute: Modria,[19] an ODR solution that provides courts with out-of-the-box resolution flows to automatically resolve disputes; e-just,[20] which offers online settlement for commercial disputes; AnOliveBranch,[21] a friendly mediation process; and HiiL Innovating Justice[22] whose mission is to sustainably improve the justice journeys experienced by users of the justice.

'Challenges facing ODR and future application of ODR' was the topic of the next panel chaired by Andy Lee. ODR has ambitious goals but also faces a number of challenges from established institutions and approaches. One panel discussed how these obstacles can be overcome. ODR has quickly become an important venue to settle various disputes. In e-commerce, ODR is a standard tool for consumer disputes and cross-border transactions. ODR is also used in community, medical, traffic disputes and many new applications are emerging. The panel also explained where things stand with the use of paperless procedures and said that arbitrators and lawyers should give more consideration to such issues from the outset of the case. An innovative concept was also presented about reputational feedback mechanisms and black-listing and blocking on the internet. This tool is enhancing voluntary compliance by traders and increasing the number of transactions. They are also enhancing justice by preventing conflicts.

2017 was an exciting year due to the publication of three books about ODR: *Digital Justice: Technology and the Internet of Disputes; The New Handshake;* and *Dealing with Disputes in the Digital Age*. This session, moderated by Ethan Katsh, explored the themes present in the three books.

The final panel on 'Lightening rounds on evolution or revolution and pilot projects in ODR', chaired by Mirèze Philippe, presented some projects undertaken around the world. Technology in India is so advanced that it exports experienced engineers, undertakes many projects, builds platforms, firms from around the world subcontract projects to Indian high-tech companies, and some universities are putting in place pilot projects for resolving disputes online and proposing to the government an institutionalized system. In the United States and Canada, where most platforms and pilot projects were born, others have been developed and are perfect examples to build on, such as the Florida Justice Technology Center. A family law platform has been put in place in Canada. A project is currently being undertaken in Spain to resolve conflicts within the tourism sector. Finally, a speaker shared her experience when contributing to build a platform and analy-

19 Modria ODR for Courts: <https://www.tylertech.com/solutions-products/modria>.
20 e-Just: <https://www.ejust.fr/>.
21 AnOliveBranch: <www.anolivebranch.com/>.
22 HiiL Innovating Justice: <www.hiil.org/>.

sing the needs of the clients that allowed them to learn about the state of mind that can prevent or facilitate the transition from the traditional to the digital world.

"So much was covered over the course of two days, the ideas, inspiring individuals and innovative projects are too much to list in a single article," said Natasha Mellersh in her GPC Blog.[23]

3 Experience in Building an ODR Platform

The author shared her experience in building the NetCase platform, which applies to any similar project. The platform gave ICC arbitrations users access to their arbitrations in a secure environment 24 hours /7 days. NetCase was suspended as the ICC needed to upgrade the Court's systems.

3.1 Everything Is Online, Why Not Justice?

The author referred to her opening remarks by which she said everything is online except justice[24] and confirmed that this is unfortunately the case except in a handful of jurisdictions. ODR providers exist around the world but users are not sufficiently aware about these facilities. A few dispute resolution organizations offer the facility of filing a claim online and managing a case online. Users in general and in dispute resolution expect online services. This has been demonstrated in the Queen's Mary survey of 2015, but very few organizations today are able to offer the possibility of conducting a case online.

Dispute resolution organizations have in general either used off-the-shelf software to build programmes, or have opted for a state-of-the-art system built in-house. This was the case of the ICC. We used internal expertise in ICC practice and external technology expertise to create a state-of-the-art computerized case management system and based on this system we implemented the NetCase platform. There is no perfect solution, both methods are good depending on the project.

3.2 Pragmatism Should Rule the Day

Building platforms is not rocket science. It requires (i) expertise in the mechanism of the service to be offered online, (ii) competent and efficient engineers, and (iii) realism and pragmatism are the order of the day.

What do users need? They need to have a system that any person can use, whether IT literate or non-IT literate. They need a clear and simple organization of the website to allow them finding easily any information without browsing through several folders. They need permanent and instantaneous access to their case online. They need to easily retrieve information among thousands of documents posted. They also need to exchange documents and messages in a secure environment. Based on these criteria, we built NetCase by organizing the infor-

23 See footnote no 6.

24 Article by the author 'We Walked On The Moon, Justice Is Not Yet Online', Revue Pratique de la Prospective et de l'Innovation, March 2017, page 48.

mation and the documents in a standard way for the lawyers, the arbitrators and the Secretariat of the Court. For instance, the folders containing documents were divided into correspondence, parties' submissions, exhibits, procedural orders, terms of reference and awards.

The users benefited from (i) a centralized system that all players in a case could access; (ii) a uniform system of organization, so users did not have to worry about creating and organizing folders and information for each case; and (iii) predefined forums to exchange messages, for instance a forum, only available to arbitrators, that avoids the risk of sending unintended messages to the parties, such as the draft award, which should not be communicated to the parties before scrutiny by the ICC Court.

We provided the users with Guidelines on IT in arbitration,[25] which helped them address practical issues from the outset, such as coherent file naming for a better organization of all documents.

3.3 We Need to Take Risks

The third point the author raised was about the difficulty of defining the information workflow, and of drafting specifications that requires dedication, time and patience. While a project is being undertaken, there may be some change of practices that may require modifying the specifications, and new technologies that were not contemplated at the time of drafting the specifications.

The author then listed some of the reasons for which ODR projects sometimes fail or they are brought to life and unfortunately abandoned.

- Any platform needs constant upgrading. Any development in technology must, as much as practicable, be taken into consideration depending on the type of project to satisfy the users' expectations. This requires that the budget takes into account the building of a platform and its upgrading.
- End users are allies. They can help testing the system. They can provide feedback about their expectations from the beginning of any project. It is likewise indispensable to show the users that their feedback and requests for improvement are taken on board. Any system is normally built to make life easier in addition to serving the clients, but neither purpose would be achieved if the end users do not provide their opinions to enable assessing how improvements should be envisaged.
- Building a platform requires one to be realistic. If some phases of the project cannot be implemented at one point in time, they may be undertaken later. The project should not be dropped. It should be used and consolidated until a next phase is undertaken.
- Another pitfall that can make a project fail is the lack of proper marketing of the service.

25 Information Technology in International Arbitration – Report of the ICC Commission on Arbitration and ADR: Report of the ICC Commission on Arbitration and ADR Task Force on the Use of Information Technology in International Arbitration – An Updated Overview of Issues to Consider when Using Information Technology in International Arbitration, 27 March 2017.

To succeed in an ODR project, we also need certain other ingredients, namely to take risks, otherwise no evolution will happen, the perfect being the enemy of the good. We should not think of immediate profit potential, but long-term investment. Moreover, we need to be persistent and not stop a project because of a few bugs or missing features. This is precisely one of the major problems that led to stopping services instead of improving them. Improving sometimes requires less time and cost than abandoning a project and re-creating it. People need to be humble and realistic, learn lessons from own experiences whether good or bad, and build on every opportunity. There exists no ideal solution. Solutions and mechanisms exist and if they don't exist, they can be built by learning from existing schemes. If we believe in a project, we can take it forward.

It may be concluded that it is high time that private and public justice be available online. Access to information and justice is a human rights issue and denial of access equates to denial of justice.

4 Programme

Equal Access to Information & Justice
Online Dispute Resolution – ODR 2017
Paris, France, 12 & 13 June 2017

Online Dispute Resolution ('ODR') refers to the use of technology to support the settlement of disputes. Platforms appeared two decades ago offering a plethora of online processes for different types of disputes. ODR has grown exponentially and offers unique features for handling millions of disputes annually and has the potential to significantly increase access to justice across all legal jurisdictions.

One of the objectives of the conference is to demystify ODR and to explain why and how it offers increased access to information and justice, particularly in emerging economies, conflict zones and remote places where individuals do not even have the benefit of judiciaries to resolve their disputes. The conference will explore innovative applications of information and communications technologies to improve the administration of dispute resolution, and their direct benefits to our civil, societal and commercial life in general. It will provide the opportunity to familiarize with pilot projects, platforms and initiatives undertaken in France and worldwide and to exchange views about the ethics and future of ODR.

The conference will gather stakeholders involved or interested in online dispute resolution worldwide, ranging from state entities, legal institutions and providers, NGOs, academics and companies.

Programme Committee
Gillian Carmichael Lemaire, Carmichael Lemaire Ltd, UK/France

Benjamin Davis, Professor of Law at Toledo University School of Law, NCTDR Fellow, USA

Ethan Katsh, Director and co-founder of NCTDR, USA

Diana Paraguacuto-Mahéo, Partner at Ngo Jung & Partners; Arbitrator; IFCM, CEDR and CMAP accredited Mediator, France

Mirèze Philippe, Special Counsel at ICC International Court of Arbitration, ArbitralWomen co-founder, NCTDR Fellow, France

Daniel Rainey, Chief of Staff for the National Mediation Board, NCTDR Fellow, USA

Vikki Rogers, Director, Institute of International Commercial Law, Assistant Dean for Online Programs, NCTDR Fellow, USA

Colin Rule, Chairman and COO of Modria.Com, NCTDR Fellow, USA

Jin Ho Verdonschot, Senior Manager Online Legal Services at DAS, NCTDR Fellow, The Netherlands

Leah Wing, Professor University of Massachusetts and NCTDR co-director, NCTDR Fellow, USA

Organising Committee

Sara Debenedetti, Project Manager, ICC Arbitration and ADR Promotion

Stephanie Goubelle, Senior Manager, ICC Arbitration and ADR Promotion

Mirèze Philippe, Special Counsel

Céline Unwin-Germond, Executive Assistant to the Special Counsel

PROGRAMME - Monday 12 June 2017

09:00-09:30 Registration & breakfast

09:30-10:00 - Welcome address

Mohamed Abdel Wahab, Founding Partner & Head of International Arbitration Zulficar & Partners Law Firm

Ethan Katsh, Professor and Director, National Center for Technology and Dispute Resolution (NCTDR), co-chair of the conference

Alexis Mourre, President of the ICC International Court of Arbitration

Diana Paraguacuto, Partner, NGO Jung & Partners, GPC Paris organiser

Mirèze Philippe, Special Counsel, ICC International Court of Arbitration, organiser and co-chair of the conference

Colin Rule, Chairman and COO of Modria

10:00-10:30 - Keynote Speakers

François Zimeray: Has forgiveness a future in digital era?

Sanjana Hattotuwa: Applying ICTs to foster access to justice and peace

10:30-11:30 - Promoting the use of ICTs in the face of injustice, violence, discrimination and denial of human rights

Chair: François Zimeray

Panelists: Petra Butler, Alberto Elisavetsky, Petros Zourdoumis

Synopsis: Persons around the globe have increasing access to ICT through phones and mobile devices. The panel will explore how this can be translated into opportunities to reduce injustice as well as prevent and resolve conflicts.

11:30-12:30 - Why are certain courts living the ODR revolution and what will it take to get the courts and the legal profession to engage?

Chair: Graham Ross

Panelists: Salaheddine Al-Bashir, Louis Degos, Dory Reiling

Synopsis: In recent years, there have been notable achievements in courts using ODR, such as in Singapore, Korea, the Netherlands, and ambitious planning for online courts in the UK. In other countries, including the United States, progress has been slow. The panel will try to identify ways in which change can be accelerated.

12:30-13:30 Buffet lunch

13:30-14:30 - Corporate in-house legal process innovation to default ODR policies and practices

Chair: Mohamed Abdel Wahab

Panelists: Sana Belaïd, Alma Forgo, Cathy Liu

Synopsis: In-house counsel in several industries have been experimenting with ODR. The panel will explore how ODR can accelerate and improve dispute resolution processes.

14:30-15:30 - Government and public-sector platforms in civil conflicts

Chair: Fabien Gélinas

Panelists: Fernando Sérgio Tenório de Amorim, MJ Cartwright, Kei Nam Tsoi

Synopsis: The panel will demonstrate how platforms can be used mainly in state courts and will explore the successes and challenges of government sponsored ODR in various contexts.

15:30-16:00 Coffee break

16:00-17:00 - Consumer and civil disputes: do the existing systems offer means of free access to justice or access at low-cost?

Chair: Benjamin Davis

Panelists: María Mercedes Albornoz, Pablo Cortés, Vincent Tilman

Synopsis: The EU ODR regulation is an important step forward in the protection of consumers. The panel will review the implementation and relevance for C2C and B2C in the EU and elsewhere. Some jurisdictions offer access to justice in civil disputes. The panel will demonstrate how access to justice online is possible.

17:00-18:00 - Technology used by dispute resolution organisations

Chair: Mark Appel

Panelists: Vladimir Khvalei, Mirèze Philippe, Roberta Regazzoni, Andy Rogers

Synopsis: Few traditional dispute resolution providers have implemented platforms to administer dispute resolution cases. What has been the experience so far and what suggestions for the future?

18:00-20:00 Networking Cocktail

PROGRAMME - Tuesday 13 June 2017
09:00-09:30 breakfast

09:30-10:30 - Ethics and ODR systems design
Chair: Leah Wing
Panelists: Allan Barsky, Carrie Menkel-Meadow, Nancy Welsh
Synopsis: Should algorithms be impacting or deciding outcomes? Should software developers be gatekeepers to access to justice? Is it possible to programme away bias? The panelists will explore ethical principles and standards for ODR, ADR, and Artificial Intelligence illustrating challenges that remain for the field and opportunities they provide for enhancing access to justice through ODR.

10:30-11:30 - Artificial intelligence and expert systems in ODR, predictive justice, data collection and analysis, data protection, privacy, cyber security
Chair: Catherine A. Rogers
Panelists: Eric Barbry, Jérôme Dupré, Debi Slate
Synopsis: Advanced software-supported learning and decision-making systems are appearing. How are they changing the early ODR view of technology as the "Fourth Party"? Will the algorithms of predictive justice impact the outcome of disputes? ODR faces many of the same issues of data protection, privacy and secure communications that other online services face. How should the ODR field respond?

11:30-12:30 - Governing the field of ODR, standards, practices
Chair: Daniel Rainey
Panelists: Brian Hutchinson, David Larson, Tresca Rodrigues
Synopsis: ODR is an emerging field in which issues of standards are becoming one of the focus of attention. What these standards should be and how they might differ with the ethics of the ADR field will be discussed.

12:30-13:30 Buffet lunch

13:30-14:30 - Online dispute resolution platforms, providers and mechanisms
Chair: Jeff Aresty
Panelists: Valentine Baudouin, Liam Moore, Colin Rule, Jin Ho Verdonschot
Synopsis: This panel will demonstrate a variety of platforms currently in use.

14:30-15:30 - Challenges facing ODR and future application of ODR
Chair: Andy Lee
Panelists: Gillian Carmichael Lemaire, Erik Schäfer, Aura Esther Vilalta
Synopsis: ODR has ambitious goals, *e.g.* improve access to justice and impact the global community. It also faces resistance from established institutions and approaches. How can these obstacles be overcome?

15:30-16:00 Coffee break

16:00-17:00 - A discussion of three new books on ODR

Chair: Ethan Katsh

Panelists: Ian Macduff, Orna Rabinovich-Eini, Colin Rule, Amy J. Schmitz

Synopsis: 2016 and 2017 has seen the publication of several noteworthy books about ODR. In this session, the authors will explain their goals and will engage the audience in the range of issues present in the books.

17:00-18:00 - Lightening rounds on evolution or revolution and pilot projects in ODR

Chair: Mirèze Philippe

Panelists: Ihab Amro, Darren Gingras, Suman Kalani, Zbynek Loebl, Janet Martinez, Chittu Nagarajan, Rosa Pérez Martell, Joyce Raby, Rosa Taban

Synopsis: This panel will examine innovations and new experiments in ODR.

Wrap-up: Ethan Katsh and Mirèze Philippe

Speakers

- Mr Mohamed Abdel Wahab (Prof. of Law, Founding Partner and Head of International Arbitration, Zulficar & Partners Law Firm, NCTDR Fellow) Egypt
- Mr Salaheddine Al-Bashir (Senior Partner, International Business Legal Associate) Jordan
- Ms María Mercedes Albornoz (Researcher Professor at Center for Research and Teaching in Economics, Centro de Investigación y Docencia Económicas, CIDE) Mexico
- Mr Fernando Sérgio Tenório de Amorim (Professor of Law at the Centro Universitário CESMAC) Brazil
- Mr Ihab Amro (post-doctoral researcher at the Central European University in Budapest) Jordan
- Mr Mark Appel (Arbitrator & Mediator, ArbDB Chambers) UK
- Mr Jeff Aresty (President at Internet Bar Organisation, NCTDR Fellow) USA
- Mr Eric Barbry (Lawyer, Head of the Digital Law division at Alain Bensoussan Avocats Lexing) France
- Mr Allan Barsky (Professor, School of Social Work, Florida Atlantic University) USA
- Ms Valentine Baudouin (Lawyer and strategic advisor, eJust) France
- Ms Sana Belaïd (Senior Legal Counsel for CISCO) Dubai, UAE
- Ms Petra Butler (Professor at the Victoria University of Wellington School of Law and Co-Director of the Centre for Small States at Queen Mary, University of London) New Zealand
- Ms Gillian Carmichael Lemaire (Carmichael Lemaire Ltd, UK/France) UK & France
- Ms MJ Cartwright (CEO of Matterhorn by Court Innovations) USA
- Mr Pablo Cortés (Professor of Civil Justice at University of Leicester, Lawyer, NCTDR Fellow) Spain
- Mr Benjamin Davis (Professor of Law, University of Toledo College of Law, NCTDR Fellow) USA

- Mr Louis Degos (Managing Partner at K&L Gates, Président de la Commission Nationale de la Prospective et de l'Innovation du Conseil National des Barreaux) France
- Mr Jérôme Dupré (Lawyer, Co-Founder of Case Law Analytics and Fast Arbitre) France
- Mr Alberto Elisavetsky (Founder and Director of ODR Latinoamerica, NCTDR Fellow) Argentina
- Ms Alma Forgo (Head of Commercial Litigation & Arbitration, Airbus Group) France
- Mr Fabien Gélinas (Sir William C. Macdonald Chair, McGill University; Co-Founder, Montreal Cyberjustice Laboratory) Canada
- Mr Darren Gingras (Executive Director, The Common Sense Divorce) Canada
- Mr Sanjana Hattotuwa (Special Advisor, ICT4Peace Foundation, NCTDR Fellow) Sri Lanka
- Mr Brian Hutchinson (Associate Professor in the School of Law, University College Dublin, NCTDR Fellow) Ireland
- Ms Suman Kalani (Assistant Professor, Pravin Gandhi College of Law, Mumbai) India
- Mr Ethan Katsh (Director and Co-Founder of NCTDR) USA
- Mr Vladimir Khvalei (Partner at Baker McKenzie, Vice-President of the ICC Court of Arbitration and Chairman of the Board of the Russian Arbitration Association) Russia
- Mr David Larson (Professor of Law and Senior Fellow, Dispute Resolution Institute, Mitchell | Hamline School of Law, NCTDR Fellow) USA
- Mr Andy Lee (Executive Director, Shenzhen Research Center, University of International Business and Economy) China
- Ms. Cathy Liu (General Counsel of China Agri Industries Holding limited) China
- Mr Zbynek Loebl (NCTDR Fellow) Czech Republic
- Mr Ian Macduff (Teaching Fellow, School of Law and Deputy Director, Centre for ICT Law, University of Auckland, NCTDR Fellow) New Zealand
- Ms Janet Martinez (Professor of Law; Director, Gould Negotiation and Mediation Program; Co- Director, Gould Alternative Dispute Resolution Research Initiative at Stanford Law School) USA
- Ms Carrie Menkel-Meadow (Professor of Law at University of California Irvine School of Law) USA
- Mr Liam Moore (Founder and CEO of AnOliveBranch.com) Ireland
- Mr Alexis Mourre (President of the ICC International Court of Arbitration) France
- Ms Chittu Nagarajan (Co-founder of Modria.com, and Managing Director of Modria India, NCTDR Fellow) India
- Ms Diana Paraguacuto (Partner at Ngo Jung & Partners, Arbitrator; IFCM, CEDR and CMAP accredited Mediator) France
- Ms Rosa Pérez Martell (Senior Lecturer at the University of Las Palmas de Gran Canaria) Canary Islands, Spain

- Ms Mirèze Philippe (Special Counsel at ICC International Court of Arbitration, ArbitralWomen Founding Co-President, NCTDR Fellow) France
- Ms Orna Rabinovich-Eini (Associate Professor at the Faculty of Law at the University of Haifa, NCTDR Fellow) Israel
- Ms Joyce Raby (Executive Director of the Florida Justice Technology Center) USA
- Mr Daniel Rainey (Chief of Staff for the National Mediation Board, NCTDR Fellow) USA
- Ms Roberta Regazzoni (Officer, Camera Arbitrale di Milano) Italy
- Ms Dory Reiling (Senior Judge at the Amsterdam District Court) The Netherlands
- Ms Tresca Rodrigues (Principal Consultant, Moralis Consulting) UK
- Mr Andy Rogers (Director of Communications, CEDR) UK
- Ms Catherine A. Rogers (Professor of Law at PennState Law; Founder & Director of Arbitrator Intelligence) USA
- Mr Graham Ross (Founder and President of TheMediationRoom.com, Member of the Civil Justice Council's ODR Advisory Group and of its ADR Working Party and Head of the European Advisory Board to Modria, NCTDR Fellow) UK
- Mr Colin Rule (Chairman and COO of Modria.Com, NCTDR Fellow) USA
- Mr Erik Schäfer (Partner at Cohausz & Florack) Germany
- Ms Amy J. Schmitz (Professor of Law at University of Missouri) USA
- Ms Debi Slate (President & Co-Founder at Dispute Resolution Data) USA
- Ms Rosa Taban (Lecturer at Panthéon Sorbonne Law School and former VP, former Head of Legal at eJust) France
- Mr Vincent Tilman (Manager at Belgian Ombudsman for the Retail) Belgium
- Mr Kei Nam Tsoi (CIO and Arbitrator from ShenZhen Arbitration Commission) China
- Mr Jin Ho Verdonschot (Senior Manager Online Legal Services at DAS Netherlands, NCTDR Fellow) The Netherlands
- Ms Aura Esther Vilalta (Senior Lecturer at Faculty of Law, Open University of Catalonia, NCTDR Fellow) Spain
- Ms Nancy Welsh (Professor of Law at PennState Law) USA
- Ms Leah Wing (Co-Director, NCTDR; Senior Lecturer, Legal Studies, University of Massachusetts Amherst) USA
- His excellency Mr François Zimeray (France's Ambassador to the Kingdom of Denmark, former Ambassador for Human Rights) Denmark
- Mr Petros Zourdoumis (Founder ODReurope, General Director ADR point) Greece

The International Online Dispute Resolution Forum Meetings

The annual International ODR Forum was initiated in 2002 in Geneva by Professor Ethan Katsh and Daewon Choi, an official of the United Nations Economic Commission for Europe. Since then, the organising committee has been chaired by Professor Katsh and planned by the Fellows of the National Center for Technology and Dispute Resolution at the University of Massachusetts.

Location	Year	Host and organiser
Geneva (Switzerland)	2002 & 2003	Daewon Choi
Melbourne (Australia)	2004	Melissa Conley Tyler
Cairo (Egypt)	2006	Mohamed Abdel Wahab
Toledo (USA)	2006	Benjamin Davis
Liverpool (United Kingdom)	2007	Graham Ross
Hong Kong	2008	Christopher To
Victoria (Canada)	2008	Frank Fowlie
Haifa (Israel)	2009	Orna Rabinovich-Einy
Buenos Aires (Argentina)	2010	Alberto Elisavetsky
Chennai (India)	2011	Chittu Nagarajan and Colin Rule
Prague (Czech Republic)	2012	Zbynek Loebl
Montreal (Canada)	2013	Karim Benyekhlef and Fabien Gélinas
Silicon Valley (USA)	2014	Colin Rule, Janet Martinez and Sheila Purcell
New York (USA)	2015	Vikki Rogers
The Hague (Netherlands)	2016	Jin Ho Verdonschot (HiiL)
Beijing (PRC)	2016	Andy Lee
Paris (France)	2017	Mirèze Philippe (ICC)
Auckland (New Zealand)	2018	Ian MacDuff

Pioneers of Online Dispute Resolution

The ODR field is now more than twenty years old, and this conference is a fitting opportunity to begin the process of paying tribute to the pioneers who contributed to building the field. In that spirit, names are listed below of some of the ODR innovators who contributed in the late 1990s and early 2000s, by building projects and platforms, publishing, and through other works helped to promote ODR in their communities and jurisdictions.

They are mentioned in alphabetical order.

- Mohamed Abdel Wahab
- Steve Abernethy
- Jeff Aresty
- Anne Irving
- Karim Benyekhlef
- Daewon Choi
- Melissa Conley Tyler
- Pablo Cortes
- Benjamin Davis
- Michael Dennis
- Alberto Elisavetsky
- Frank Fowlie
- Alan Gaitenby
- Fabien Gélinas

- John Helie
- Brian Hutchinson
- Ahmed Khaisghi
- Ethan Katsh
- Gabrielle Kaufmann-Kohler
- David Larson
- Andy Lee
- Zbynek Loebl
- Ian Macduff
- Janet Martinez
- John Melville Williams QC
- Chittu Nagarajan
- Mirèze Philippe
- Sheila Purcell
- Orna Rabinovic
- Daniel Rainey
- Janet Rifkin
- Vikki Rogers
- Graham Ross
- Colin Rule
- Erik Schäfer
- Debora M. Slate
- Vincent Tilman
- Christopher To
- Jin Ho Verdonschot
- Leah Wing
- Michael Wolf