



The Future of Online Dispute Resolution and Intelligent Innovation

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Abstract. In response to the need for efficiency in transactions in the era of digital globalization, the international commercial dispute resolution mechanism has given rise to the digital Online Dispute Resolution (ODR). It has successfully responded to the force majeure impediment exemplified by the COVID-19. By analyzing the ODR mechanism's distinct advantages, such as uniformity of system, choice of jurisdiction, convenience and efficiency, this article explains its necessity and advantageous position as a complementary and innovative model to the traditional offline dispute resolution mechanism. This is followed by a discussing the need for further specialized regulations on procedural legality and regulatory fairness in practice. On the other hand, the problem of data security depends on the emergence of pertinent technological barriers. The paper also recommends exploring and integrating artificial intelligence technologies from the perspectives of dynamic pouncing intelligent analysis and institutional inclusion to safeguard fundamental human rights, which will assist the ODR platform in developing into a supplemental arbitration institution in the future as well as a successful method for resolving Internet-related disputes.

Keywords: Online Dispute Resolution · Procedural legality · Artificial intelligence · Internet-related disputes

1 Instruction

1.1 Backgrounds

Social conflict management and civil dispute resolution have entered a new development opportunity phase of modernisation and intelligence in the big data era. Artificial intelligence applications in the legal profession are also growing more sophisticated. Based on how disputes resulting from the growth of e-commerce were handled in the 1990s [1], online dispute resolution (ODR), which employs contemporary communication technologies like the internet to resolve disputes swiftly and effectively, has become widely accepted. ODR refers to the process of determining ODR refers to the process of resolving disputes in which all of the more critical processes are conducted online, i.e., the crucial process from filing a dispute to the final decision [2]. It covers a wide range of

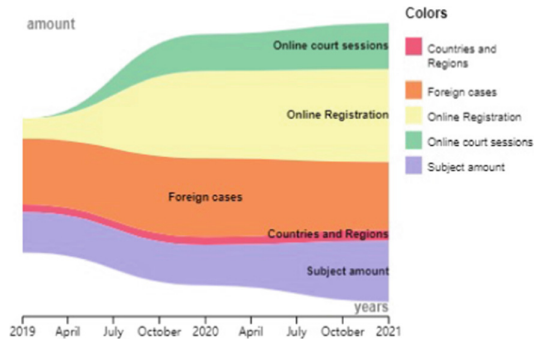


Fig. 1. Caption of intelligent cases in the last three years.

dispute resolution methods other than the court system, such as arbitration, expert determination, consumer complaints mechanisms, ombudsman systems and trade association arbitration mechanisms.

Due to the increased level of interest and active participation of national dispute resolution agencies, the field of international arbitration practise has undergone significant changes recently. In addition to the fact that the impact of dispute resolution has grown greatly, investors' interests in this area are also rising, and the move towards digital applications is helping. At the same time, people are increasingly concerned about the legitimacy of arbitration proceedings' relevance, transparency and confidentiality. In addition, the restrictions on travel imposed by the COVID-19 objectively contribute to the digital development of dispute resolution mechanisms. Emerging smart areas such as the Internet and smart contracts further demand effective ways to build on artificial intelligence.

1.2 Trends

The China International Economic and Trade Arbitration Commission (CIETAC), for example, conducts online arbitration under the Online Arbitration Rules, which is a dispute resolution method that makes full use of Internet technology resources such as email, online case management systems and web-based video conferencing to arbitrate procedural matters within the regular arbitration structure. The efficiency of filing cases has greatly increased since the introduction of the online filing system, according to CIETAC's 2019 annual report. As can be seen in Fig. 1, the rise in the number of foreign nations, cases, and subjects has necessitated a worldwide scope for the arbitration. The ODR mechanism's future potential is well indicated by the year-over-year growth in the number of online cases submitted and hearings held.

2 Necessities and Advantages

2.1 Harmonization of Basic Rules

Firstly, the ODR mechanism, as a neutral platform for equal participation by all subjects, can set the ground rules for dispute resolution. There are 23 distinct jurisdictions in

Europe, the Asia-Pacific area, Africa, the Middle East, North America, and South America, and each has its own legal systems, level of technology, adaptability, and cultural flexibility. Establishing a relatively uniform dispute resolution mechanism will help the parties in the trial process to increase their sense of fairness.

2.2 Jurisdiction and Choice of Terms

In the application of ODR, the parties agree on jurisdictional and dispute-resolution clauses based on the idea of party autonomy, either explicitly in the contract or after a potential conflict between the parties. Mainland Chinese law, like EU law, gives the parties to a contract the freedom to select a domestic or international court or arbitration institution in this regard. Generally, it is most efficient and convenient to use the law of the place of arbitration as the law applicable to the arbitration proceedings [3]. Bakhramova suggests the jurisdiction of digital arbitration, which could introduce an extraordinary conflict of law rules regarding the subordination of the relevant field to the registration law [4]. In dispute resolution, parties often prefer arbitration to the courts [5]. Foreign investors usually feel more confident when dealing with arbitration institutions. Significantly when factors such as state-owned companies or international status are involved, the neutrality of the arbitration institution can appropriately reduce the influence of local judges. Given the greater freedom, the excellent professionalism and international perspective of the arbitrators, the shorter average length of proceedings, the reduced formalities involved in gathering evidence from abroad, the application of the New York Convention enforcement, the confidentiality, and the greater validity of the award, parties frequently choose foreign-related arbitration jurisdictions, particularly internationally renowned arbitration institutions. Although this places a heavy burden on respectable arbitration institutions, discrepancies in awards due to geographical variances are always a possibility. In this sense, the ODR, as a virtual platform, goes farther to satisfy the position of arbitral neutrality while upholding the criterion of decentralization. It reduces the challenges that parties may have in choosing based on the international status and qualifications of the arbitration venue.

2.3 Convenience and Cost Savings

In most cases, the legal costs of dispute resolution are primarily significant and unaffordable. The lower cost structure of ODR is one of the key drivers of its development. ODR processes employ the internet to perform trials, considerably coordinating the parties' schedules across multiple time zones, with simple procedures, effective trials, and cost- and resource-effective outcomes. Additionally, given the objective circumstance of COVID-19-imposed travel limitations, it has greatly decreased the high backlog of cross-border trade contracts, torts, and other disputes.

3 Discussion of Practice

3.1 Procedural Issues

3.1.1 Doubtful Cross-Examination

Generally speaking, factual arguments are given more weight in international business arbitration. As a result, the hearing's main goal is to check the evidence and evaluate the facts. Documentary, oral, and expert testimony are the most frequent types of evidence used. The requirement for the electronic disclosure of documentary evidence can be satisfied by contemporary internet technology. Expert testimony does not affect intelligence because it just clarifies the expertise for the tribunal and does not involve any factual disagreements in the case. The intelligence of civil dispute resolution has a more significant impact and influence on witness testimony. The current Civil Procedure Law, Arbitration Law and People's Mediation Law's requirement for the intimacy of procedural participation conflicts to some extent with the intellectual development of dispute resolution and even become an institutional stumbling block [6].

ODRs are open to problems of procedural appropriateness due to their remote character. For instance, the Guangdong High People's Court made it clear in its Notice on Regulating the Enforcement of Arbitration Awards on Online Lending, which was published on November 21, 2019, that online arbitrations without procedural protections would not be enforced. Lacking a live, severe atmosphere and close observation, cross-examination in online hearings makes it difficult for witnesses to remain focused and allows more time for reflection and response, to the detriment of natural discovery and the arbitrator's judgment.

3.1.2 Fairness of the Hearing

Arbitration's heart is the ability to decide cases fairly and efficiently. Numerous virtual reality and virtual data challenges to arbitral tribunal hearings have been made possible by intelligent innovation. One of the arguments that has been contested focuses on the impartiality of the official tribunal hearing process.

The international arbitration centers of London, Paris and Geneva do not explicitly require the existence of a right to a substantive hearing at the time of arbitration. Apart from this, the rules of the ICC Court of Arbitration and the LCIA confirm the full right of the arbitral tribunal to decide, after consultation with the parties, whether a substantive or remote hearing is required [7]. The share of online hearings has increased significantly due to the green and lower costs and the objective boost of the COVID-19 in the last two years. While technology has changed the form of formal arbitration, it is designed to provide a fair process so that disputes can be resolved in an efficient manner [8]. This essay makes a similar argument, arguing that one should be concerned with new virtual environment demands, whether they arise from putting reality inside virtual hearing platforms or from problems with other technology advancements. These should be differentiated from procedural justice issues.

3.1.3 Cancellation

According to Article 58(1)(4) of the Chinese Arbitration Law, if the evidence is found to be false, an application for setting aside the award may be made to the intermediate people's court at the seat of the arbitration committee. The relevant judicial interpretation requires that the people's court state the reasons for requesting re-arbitration in the notice. This presents specific practical difficulties in ODR. It will not take long for the entire legal system to be connected as the digitalisation of the people's courts' records continues to advance. Additionally, as was already established, ODR's credibility in actuality is in doubt. According to the majority of national jurisdictions, whether or not there was a breach of due process during the remote online hearing will determine whether an ODR award is set aside or not enforced. It is foreseeable that the future surge in the number of online arbitration cases will create a great deal of instability in the judicial process.

3.2 Regulation

Online dispute resolution was once restricted to Internet cases. The Regulation on Alternative Dispute Resolution Mechanisms for Consumers on the Internet, which restricts the application to online contracts [9], provides for the "settlement of disputes resulting from contractual obligations based on online sales contracts or online service contracts." The economy and society have grown, though, and this tightly circumscribed scope of procedures is no longer adequate to address needs on a practical level. As the size of the application expands, the regulation of ODR platforms also requires attention. The rules in the ODR only provide assessment and evaluation but do not refine or harmonize the relevant criteria, which is not operational. An efficient management mechanism in the future will depend on the participation of various judicial authorities around the world to negotiate the appropriate management system. The credibility and fairness of the ODR mechanism should be enhanced.

3.3 Privacy Security

The fact that there are still concerns about Internet security is the most prevalent and major issue with ODR today. The development of cyber security technology is the core component of ODR methods' general use. Sensitivity, transparency, and disclosure continue to be the key concerns with regard to digital evidence found online. This article argues that, regarding the handling of digital evidence, the future hearing center could be considered the main venue for international arbitration, with partner institutions presenting digital evidence. Ensure that parties are treated equally and fairly when using the cloud to store and provide digital material for documentary evidence. In order to protect the privacy and security of the evidence, confidentiality agreements might be communicated prior to hearings, restricting the audience that would be allowed access to such shared evidence confidentiality agreements.

4 Intelligent Innovation

4.1 High-Tech Tools

Although the ODR mechanism cannot satisfy the close observation of the cross-examination part of the traditional arbitration model, the innovative use of other high-tech tools can be used to complement this drawback. Specific criteria for audio and video recording, including using numerous cameras, can be enhanced for the time being. This study suggests that the ODR platform might take into account using intelligent camera software to retain and analyse body language and demeanour using methods like dynamic pouncing to fully evaluate the reliability of witness testimony from a behavioural and psychological standpoint. Doing so can facilitate the maintenance of procedural fairness while allowing for innovative applications of technology.

4.2 Universal Welfare

ODR offers a lot of potential to help pertinent vulnerable groups. Geographical isolation, mobility restrictions, confinement or incarceration, visual or hearing impairments (e.g., through voice recognition software), language barriers (e.g., through translation software), a lack of self-confidence or competence, and physical violence or intimidation are barriers for vulnerable groups that can be removed or reduced through technology [10]. The ODR mechanism's universalization can fully actualise the system's universality and ensure that disadvantaged persons, like those with impairments, have the fundamental human right to take part in arbitration.

4.3 Ancillary, Rather than Alternative

While technology has impacted the dispute resolution model in the digital economy, it does not mean it is about to replace all dispute resolution mechanisms or support only some of them. The digital model of the ODR mechanism is a new option offered to us. Stanieri A. and Zeleznikow J. point out that ODR mechanisms can effectively build trust for people in a virtual space [11]. This will boost customer confidence in electronic transactions and faith in ODR processes. Additionally, to speed up the process, users can use case management technologies like e-bundling systems and online hearings as well as databases to seek for arbitrators. In the enforcement area, we can also consider blockchain and automated adjudication. The regulatory side still needs work, though, as the automation and digitisation of procedural stages may result in a dispute resolution system that becomes more autonomous in the future, necessitating caution to prevent it from being independent of the state courts' oversight.

5 Conclusions

In line with the need for efficient transactions in digital globalization, ODR has successfully responded to force majeure impediments such as the COVID-19 with its characteristics. It is obvious that the ODR mechanism, which is a complimentary and cutting-edge

model to the conventional offline dispute resolution process, is essential and full of benefits. Additional specialised regulation is necessary to ensure its procedural legality and regulatory fairness in practise. Data security concerns will be dependent on the emergence of pertinent technical constraints, and ODR platforms have plenty of opportunity to grow intellectual. Dynamic pouncing intelligent analysis can make up for the omission of remote work. The popularity of online platforms can fully realize the system's universality and guarantee the fundamental human rights of disadvantaged people, such as those with disabilities, to participate in the arbitration. Adopting of the ODR mechanism as a supplement to existing arbitration centers is an ideal situation, and we look forward to its further improvement and application in the future.

Authors' Contributions. The author systematically describes the advantages and value of ODR and identifies the procedural flaws and security problems in its practice. In this regard, the author innovatively proposes technological innovations such as Dynamic pouncing intelligent analysis as a remedy. The authors also characterise the future trend of ODR as a complementary and supplementary method.

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