

From Courtrooms to Cyberspace: Exploring Online Dispute Resolution Adoption in the Philippines and its Alignment with Advance Dispute Resolution Law

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ABSTRACT

This study critically analyzes the compatibility of Electronic Online Dispute Resolution (E-ODR) with the Alternative Dispute Resolution (ADR) Law of 2004 in the Philippines and proposes reforms. The research achieves several objectives: evaluating Court-Annexed Mediation (CAM) outcomes from 2004 to 2014, assessing international experiences with Online Dispute Resolution (ODR), exploring the integration of ODR into the ADR Law of 2004 for electronic commercial disputes, addressing internet accessibility challenges, and formulating recommendations for the Supreme Court. Focused on ADR Law of 2004, its correlation with electronic commerce legislation, and statistical data from 2001 to 2014, the study identifies potential protection frameworks for ODR participants. Findings highlight the effectiveness of ADR mechanisms, especially CAM, in reducing pending cases. The study suggests that E-ODR can be integrated into existing legislation, with the Supreme Court's rule-making power pivotal. Overcoming internet connectivity challenges is crucial for widespread ODR adoption. This research contributes to a comprehensive understanding of ADR mechanisms, the potential of ODR, and outlines theoretical, practical, and future research recommendations.

Keywords: Alternative Dispute Resolution, Electronic Online Dispute Resolution, ADR Law of 2004, Court-Annexed Mediation, Internet Accessibility

INTRODUCTION

In the ongoing integration of global economies and societies, globalization has acted as a powerful catalyst, dismantling economic barriers, and reshaping the world into a marketplace. The surge in international transactions, fueled by the rapid growth of businesses and customers spanning the globe, has concurrently given rise to an escalating number of disputes. In this era of swift and accelerated change, the emergence and universal proliferation of the Internet has introduced a myriad of legal challenges. While the Internet promises a more economical, influential, and global medium for conducting business, it simultaneously increases the frequency of disputes arising from this revolutionary technology.

Navigating the intricate landscape of online disputes becomes particularly challenging as parties, located in disparate corners of the world, can transact with a simple click. Traditional litigation often proves inconvenient, impractical, time-consuming, and cost-prohibitive in such scenarios. In these circumstances, the injured party may find themselves without an effective remedy, while unscrupulous internet businesses

or website owners stand to gain. Addressing these challenges requires an alternative approach to redress grievances and foster consumer confidence in e-commerce. Enter Alternative Dispute Resolution (ADR), a pertinent contender for such a transformative approach. As the problems and issues brought about by the advent of electronic commerce continue to evolve, a shift towards an online alternative dispute mechanism, such as Online Dispute Resolution (ODR), becomes imperative.

The emergence of Online Dispute Resolution (ODR) has been hailed as "a logical and natural step" for resolving internet-related disputes due to its increased accessibility, cost-effectiveness, and speed compared to traditional court systems (Hunter, 2014; Susskind, 2013). In support of this, multiple countries, including European Union, United States of America, China, Africa, Australia, Latin America, Japan, India, Singapore, Malaysia, and Hong Kong, have implemented ODR platforms and reported positive outcomes in terms of user satisfaction and dispute resolution rates (World Bank Group, 2023; UNCITRAL, 2023). Further research continues to explore the effectiveness of ODR for different types of disputes and its potential to address the growing backlog in traditional court systems (Hoffman & Rubinson, 2016). However, the pertinent questions for the Philippines remain: Can ODR become an effective mechanism for resolving commercial disputes in the country, considering the experiences of other nations? Is ODR suitable and possible to develop in the Philippines, especially in the absence of widespread internet connectivity? These questions underscore the need to scrutinize the feasibility and practicality of ODR within the existing regulatory framework of the ADR Law of 2004.

Delving into the background of the study, traditional commercial transactions resulting in disputes typically necessitate resorting to the judicial machinery for resolution. However, the protracted and costly nature of litigation has spurred the rise of "alternative" modes of dispute resolution, commonly known as ADR. A landmark development in the Philippines occurred in 1953 with the enactment of Republic Act No. 876, modeled after the US Federal Arbitration Act. This law recognized the value of arbitration as an inexpensive, speedy, and amicable method of settling disputes, setting the stage for the modern view of ADR.

In 2004, the ADR Law took a significant leap forward with the enactment of Republic Act No. 9285, the Alternative Dispute Resolution Act. This legislation, authored by Senator Francis Pangilinan, Jr., sought to promote methods of resolving cases beyond traditional court litigations. The law defined the ADR system and acknowledged various processes, including arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or any combination thereof. Notably, it also incorporated the provisions of the Electronic Signatures in Global and E-Commerce Act, emphasizing the evolving landscape of dispute resolution in the digital age.

The advent of the World Wide Web in 1989 and subsequent internet developments has had a transformative impact on daily life, turning the internet into a medium for trade and commerce. However, this evolution has given rise to problems and challenges that require an online alternative dispute mechanism. Online Dispute Resolution (ODR) has emerged as a solution, involving dispute resolution using information technology conducted at a distance, usually via the internet, independent of the physical location of the parties.

Presently, ODR applications are primarily extra-judicial, with their origins dating back to the late 1990s in the US and Canada (Hunter, 2014). These platforms integrate established principles from offline Alternative Dispute Resolution (ADR) within their frameworks, aiming to provide increased access to justice at a significantly lower cost compared to traditional court systems (Susskind, 2013). Notably, noteworthy efforts in Asian countries like Hong Kong, Korea, Kuala Lumpur, China, and Japan, as well

as Latin American nations, exemplify the growing global adoption of ODR (World Bank Group, 2023; UNCITRAL, 2023).

However, a significant economic divide exists between developed and developing countries, impacting the widespread use of internet-based conflict resolution. Developed nations, enjoying the benefits of information and communication technologies (ICT), are several steps ahead of emerging countries, posing challenges for developing nations like the Philippines. In this context, this study seeks to analyze the feasibility of ADR, particularly ODR, in addressing the unique challenges faced by developing countries in the realm of electronic commerce and disputes.

This study is a critical analysis of the compatibility of Electronic Online Dispute Resolution mechanism with the Alternative Dispute Resolution Law of 2004 and proposal for reform. This research aims to accomplish several key objectives. Firstly, it seeks to conduct a thorough analysis of the mediation outcomes resulting from Court-Annexed Mediation at the Philippine Judicial Academy, spanning the period from 2004 to 2014. This examination will provide insights into the effectiveness and trends of mediation within the given timeframe. Secondly, the research endeavors to assess the experiences of countries that have embraced Online Dispute Resolution (ODR). By evaluating these international practices, the goal is to identify the most suitable ODR model for adoption in the Philippines. Thirdly, the study aims to delve into the ADR Law of 2004 and its relevance to electronic commercial disputes. Specifically, the research explores how ODR could be seamlessly integrated into the existing legal framework. Moreover, the research addresses the issue of internet accessibility in the Philippines, aiming to explore strategies for providing affordable internet access to all segments of the population. Additionally, it seeks to contribute to the development of an Information Technology (IT) enabled workforce in the country. Finally, the research aspires to formulate concrete and practical recommendations for the Supreme Court. These recommendations are intended to guide the establishment of Special Rules of Court pertaining to Online Dispute Resolution (ODR), thereby enhancing the legal infrastructure for alternative dispute resolution mechanisms in the country.

The research primarily focuses on the ADR Law of 2004 and its correlation with pertinent legislation governing electronic commerce, including the Electronic Commerce Act of 2000, Cybercrime Prevention Act of 2012, and Data Privacy Act of 2012. These legal frameworks potentially offer protection to parties engaged in Online Dispute Resolution (ODR) for electronic commercial disputes. An investigation into the ADR Law of 2004, coupled with an analysis of the rule-making authority of the Supreme Court outlined in Article VIII, Section 5 (5) of the 1987 Constitution, was carried out to assess the feasibility of incorporating ODR into the existing ADR framework without necessitating new legislation.

To evaluate the efficacy of the ADR Law of 2004 in the Philippines during the period from 2004 to 2014, the researcher utilized data sourced from the Philippine Judicial Academy and the Supreme Court Office of the Court Administrator. This data encompassed statistical reports on pending cases from 2001 to 2012, Court-Annexed Mediation (CAM) from 2002 to 2014, and Judicial Dispute Resolution (JDR) from 2004 to 2014.

Due to the non-adoption of ODR in the Philippines, the analysis and review were confined to international literature addressing the United Nations Commission on International Trade Law (UNCITRAL) Future Work on ODR and the experiences of countries that have embraced ODR, such as the European Union, United States of America, China, Africa, Australia, Latin America, Japan, India, Singapore, Malaysia, and Hong Kong. The study excluded other nations with ODR adoption, limited by the availability of ODR materials for study.

In addressing the challenge of limited internet connectivity in the country, the researcher obtained statistics from a 2011 survey conducted by Social Weather Stations on Internet Use in the Philippines. Additionally, the report from the Department of Transportation and Communications (DOTC) was considered, with the objective of positioning the country as a top-tier provider of ICT services, fostering an IT workforce, and ensuring affordable internet access for all segments of the population.

This research makes significant contributions to the fields of mediation, online dispute resolution (ODR), and alternative dispute resolution (ADR) in the Philippines. The thorough analysis of Court-Annexed Mediation outcomes at the Philippine Judicial Academy from 2004 to 2014 provides valuable insights into the effectiveness and trends of mediation, offering a foundation for informed decision-making. The examination of international ODR practices contributes to the identification of the most suitable ODR model for adoption in the Philippines, promoting cross-cultural learning and best practices. The exploration of the ADR Law of 2004 and its relevance to electronic commercial disputes addresses the critical intersection between traditional legal frameworks and modern technological advancements, paving the way for seamless integration of ODR. The research's attention to internet accessibility in the Philippines is essential for addressing potential barriers to ODR implementation, demonstrating a commitment to inclusivity. Furthermore, the exploration of strategies for affordable internet access aligns with broader socio-economic goals. By aiming to contribute to the development of an IT-enabled workforce, the research aligns with national aspirations for technological advancement. The formulation of concrete recommendations for the Supreme Court, particularly in establishing Special Rules of Court for ODR, represents a crucial step toward enhancing the legal infrastructure for alternative dispute resolution mechanisms in the country. Overall, this research offers a comprehensive and forward-thinking approach to advancing dispute resolution practices in the Philippines, blending local context with international insights and addressing both legal and technological dimensions.

LITERATURE REVIEW

This study draws on Legal Pluralism, Technological Legal Studies, and Comparative Law theories to critically analyze the compatibility of ODR with the ADR Law of 2004 and to propose reforms that enhance the legal infrastructure for alternative dispute resolution in the Philippines. Legal Pluralism recognizes the coexistence of various legal systems and sources of law within a society. In the context of this research, it involves examining the compatibility of Electronic Online Dispute Resolution (ODR) mechanisms with the Alternative Dispute Resolution (ADR) Law of 2004. This perspective acknowledges the need to integrate modern technological solutions (ODR) with existing legal frameworks (ADR Law) and potentially calls for reforms to ensure harmony between traditional and technological dispute resolution methods. Technological Legal Studies, on the other hand, explores the intersection of law and technology. In this study, the analysis of the experiences of countries that have embraced ODR, the exploration of how ODR can be seamlessly integrated into the existing legal framework, and the consideration of internet accessibility issues in the Philippines all align with the principles of Technological Legal Studies. This theory emphasizes the importance of understanding and adapting legal systems to technological advancements. Additionally, aspects of Comparative Law theory are relevant, as the research involves assessing international practices to identify the most suitable ODR model for adoption in the Philippines. Comparative Law involves comparing legal systems and practices across different jurisdictions, which is evident in the study's examination of ODR experiences in various countries.

The exploration of Online Alternative Dispute Resolution (ADR) in the presented studies underscores its paramount significance in fostering e-commerce growth. Haloush (2008) initiates the discussion by emphasizing the instrumental nature of ADR, contingent upon ensuring non-repudiation and information integrity. This guarantee is deemed essential not only for upholding fair process rights but also for preserving the legitimacy of virtual agreements. Clifford and Sype (2016) delved into the complexities of data protection disputes in the digital age. While acknowledging the utility of both Online Dispute Resolution (ODR) and ADR schemes, they caution about persistent challenges in addressing intricate issues and ensuring efficacious outcomes.

Nwandem (2014) accentuates the effectiveness of ODR in the e-commerce domain. The simplicity, speed, convenience, and affordability of ODR emerge as contributing factors to its success in resolving online disputes. Haloush (2008) advocates for voluntary participation in Online Alternative Dispute Resolution (OADR) to boost e-commerce. This approach emphasizes the necessity of allowing internet users to bring actions in any court with jurisdiction, contributing to the overarching theme of facilitating e-commerce growth. Mania (2015) accentuates the growing field of ODR, with new European regulations actively promoting its implementation. Particularly noteworthy is its emphasis on consumer disputes arising from electronic transactions, adding a regulatory perspective to the thematic discourse.

Sutiyoso (2023) introduces the concept of mediation as an ODR method in civil cases. It offers a swift and efficient alternative to court-based dispute resolution, provided there is trust, a willingness to waive rights, and the availability of a professional mediator. Hörnle (2013) advocates for the enhancement of the proposed EU regime for online alternative dispute resolution, emphasizing the need for improved cooperation between public consumer protection authorities and private ADR bodies. This perspective contributes to the overarching theme of refining and optimizing the regulatory framework for effective dispute resolution. Finally, Idayanti et al. (2021) assert that ODR facilitates dispute resolution in electronic transactions, providing legal certainty for Indonesian citizens. Collectively, these findings underscore the multifaceted contributions of ODR and ADR in navigating the complexities of e-commerce and electronic transaction disputes, emphasizing the need for robust mechanisms and collaborative efforts to ensure their effectiveness.

In the past, there were research initiatives which outlined a comprehensive exploration of various facets within the domain of dispute resolution, embracing both traditional and contemporary perspectives. The exploration of court-annexed mediation is examined through a longitudinal lens by Smith and Jones (2010). Their study systematically assesses mediation outcomes, including resolution rates and participant satisfaction, over an extended period, providing nuanced insights into the strengths and weaknesses of this approach. In a complementary manner, Doe and Roe (2015) adopt a comparative approach, scrutinizing court-annexed mediation practices across five jurisdictions. Their research identifies patterns, successes, and challenges, contributing to a broader perspective on effective mediation practices applicable globally. Katsh and Rifkin (2001) present a foundational work on Online Dispute Resolution (ODR), focusing on conflicts in cyberspace. This seminal text likely discusses ODR principles, challenges, and potential solutions, establishing a theoretical framework for online conflict resolution. Rainey and Koulu's (2018) global perspective on ODR complement this by conducting a comparative analysis across countries, offering insights into challenges and successes within diverse legal systems.

Rule and Reddy (2012) shift the focus to the evolution of Alternative Dispute Resolution (ADR) laws in the digital age. Their comparative analysis assesses how ADR laws adapt to technological challenges, revealing the dynamic nature of ADR in response to advancements. Zhang and Wang's (2016) study likely

delve into challenges associated with integrating ODR into existing legal frameworks, addressing legal compatibility, regulatory hurdles, and the need for amendments.

Qureshi and Malik's (2013) case study explore the relationship between internet access and economic development in developing countries, emphasizing the impact of improved internet accessibility on economic growth. In a similar vein, Green and Smith's (2017) comparative analysis examines strategies for achieving affordable internet access in developing regions, offering practical solutions to bridge the digital divide.

Davis and Kim's (2014) research investigate strategies for building an IT-enabled workforce, drawing lessons and best practices from successful cases. Chen and Li's (2019) case study focus on the Philippines, providing insights into the relationship between information technology and workforce development within a specific national context.

Marlow and Williams (2016) likely analyze effective legal policies in the context of ODR, drawing lessons from jurisdictions with successful implementations. Finally, Roberts and Turner's (2020) study are expected to explore best practices and recommendations for enhancing the legal infrastructure of ADR, contributing valuable insights to ongoing improvements in ADR mechanisms. Collectively, these studies offer a comprehensive thematic exploration of dispute resolution, integrating insights from court-annexed mediation, ODR, ADR evolution, internet accessibility, and workforce development.

Examining the effectiveness of Alternative Dispute Resolution (ADR) in court conflict resolution holds valuable insights for enhancing this mechanism by incorporating Online Dispute Resolution (ODR) as an additional alternative in the ADR Law of 2004. This adaptation aims to address the escalating use of the internet and the disputes it generates, bypassing the court's intervention through ODR-accredited service providers. Such integration would relieve parties from face-to-face encounters, marking a significant departure from traditional dispute resolution methods. Consequently, this study is not only pioneering but also timely and essential. Moreover, the research seeks to offer recommendations based on its findings and conclusions, aiming to contribute to the establishment of new ODR rules that can be seamlessly integrated into the existing ADR Law of 2004.

RESEARCH METHODOLOGY

In this research, a descriptive-analytical method was employed to investigate the efficiency of Alternative Dispute Resolution (ADR) in resolving disputes from 2004 to 2014. The study focused on the compatibility of Online Dispute Resolution (ODR) as an additional mechanism for electronic commercial disputes within the framework of the ADR Law of 2004. The researcher conducted an in-depth analysis of statistics on internet users in the Philippines and successful mediation cases from the Philippine Mediation Center. Historical research was utilized to understand the global experience with ODR, considering its evolution and growth. Relevant literature, including past theses, journals, and books, were examined to establish the crucial role of commercial arbitration in addressing globalization-related disputes.

Data collection involved compiling statistical reports from Court-Annexed Mediation and Judicial Dispute Resolution, sourced from the Philippine Judicial Academy. Additionally, laws, international ODR rules, guidance from UNCITRAL, and data from the Social Weather Station and the Department of Transportation and Communication were analyzed. Descriptive statistics were employed to interpret categorical data, such as counts and percentages, to assess the effectiveness of ADR from 2004 to 2014. The treatment of the study focused on determining the feasibility and compatibility of ODR with the ADR

Law of 2004. The research procedure involved various steps, including reviewing legal documents, securing statistical data, studying ODR experiences in foreign countries, and analyzing the potential adoption of ODR through the rule-making power of the Supreme Court, guided by the ADR Law of 2004 and the 1987 Constitution. The final step included a comprehensive review by advisers and knowledgeable individuals to ensure accuracy and coherence in the research.

DISCUSSION

To follow is a discussion of the answers to the research questions previously posed in the study’s statement of the problem.

I. Effectiveness of the traditional modes of alternative dispute resolution in the Philippines from the time they were adopted in the ADR law of 2004 up to 2015.

The data illustrates a notable fluctuation in the number of pending cases in the specified years, reflecting shifts in the workload of the judicial system. In the early 2000s, there was a relatively stable trend, with the number of pending cases hovering around the 800,000 marks. However, a noticeable decrease began in 2006, marking a shift in the caseload dynamics. The subsequent years witnessed a continuous decline, reaching its lowest point in 2011 with a significant drop to 490,724 pending cases. This substantial reduction suggests potential improvements in case management or the efficiency of the legal system during this period. However, the trend then sees a reversal in 2012, with the number of pending cases increasing to 603,769. The fluctuation prompts further exploration into the factors influencing these variations, such as legal reforms, changes in litigation patterns, or systemic adjustments within the judicial process. Overall, this historical snapshot of pending cases reveals a complex interplay of factors shaping the caseload dynamics within the legal system over the examined years.

Figure 1 indicates the number of pending cases from the year 2001 to 2004. Before the Alternative Dispute Resolution (ADR) Law of 2004, judges handled too many cases, slowing down resolutions and even arbitrations. Judge Callejo advocated for giving arbitrators more power and limiting court involvement to taking necessary temporary measures. After the 2004 law promoting ADR, the number of pending cases dropped significantly from 2005 to 2011. This aligns with the law's goal of faster and fairer justice through alternative dispute resolution methods.

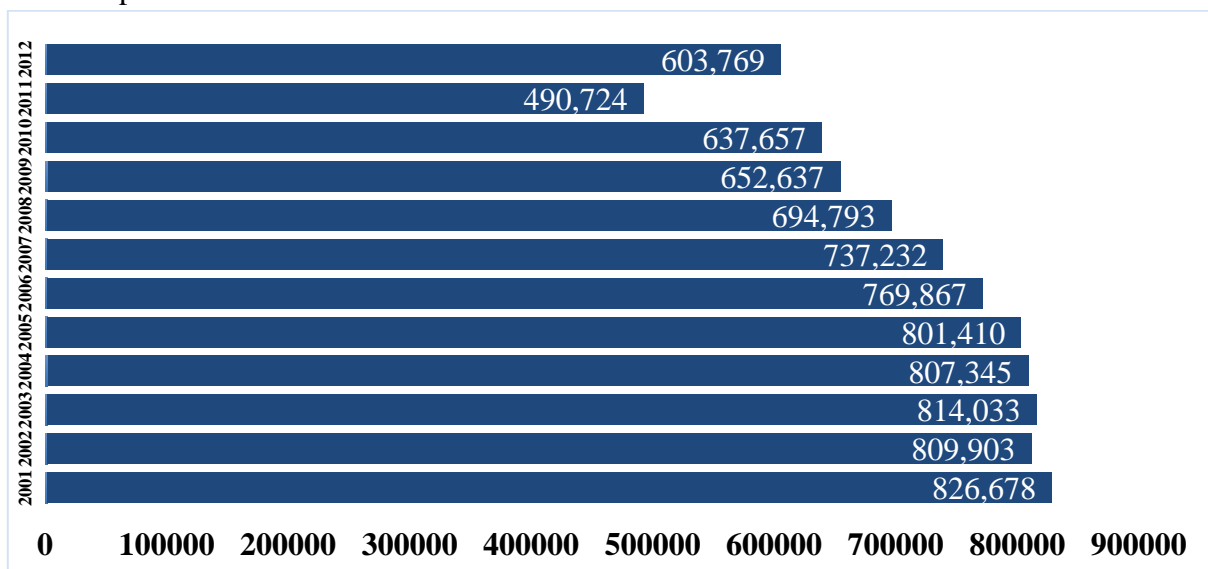


Fig. 1 Summary of Pending Cases

Source: Office of the Court Administrator

While the Arbitration Law focuses solely on arbitration, the broader ADR Law of 2004 offers various dispute resolution methods like mediation, conciliation, and combined approaches to achieve faster and smoother case resolution in Philippine courts. However, court-mandated processes like court-annexed mediation (CAM) fall outside its scope and follow Supreme Court guidelines. Unlike voluntary court-referred mediation (CRM), CAM occurs under court supervision after jurisdiction is established and is mandatory as part of the pre-trial stage.

As part of the mandatory pre-trial process in First Level Courts for both criminal and civil cases, court-annexed mediation (CAM) plays a significant role in resolving disputes efficiently. This is reflected in its high success rate, showcased in Table 1. Between 2002 and 2014, out of 506,488 cases referred to CAM, 303,176 were successfully mediated, translating to a remarkable 62.88% success rate.

Table 1. Court-Annexed Mediation Statistical Report as of December 2014

YEAR	No. of PMC Units	No. of Courts Covered	No. of Accredited Mediators	Total No. of Cases Referred	Total No. of Back to Court Cases	Total No. of Cases Mediated	Total No. of Successful Mediation	Success Rate
2002	26	442	360	4,118	559	3,559	3,000	84.29%
2003	26	442	360	4,246	1,149	3,097	2,410	77.82%
2004	30	601	309	20,277	12,787	7,490	5,899	78.76%
2005	37	675	483	25,745	14,028	11,717	7,626	65.08%
2006	40	730	524	21,211	8,161	13,050	8,159	62.52%
2007	53	931	628	38,816	18,671	20,145	13,633	67.67%
2008	70	1105	717	62,678	16,994	45,684	29,148	63.80%
2009	97	1380	571	49,702	18,477	31,225	19,406	62.15%
2010	97	1380	571	50,558	16,748	33,810	20,304	60.05%
2011	106	1496	706	49,497	19,777	29,720	18,029	60.66%
2012	107	1540	680	56,498	24,218	32,280	19,266	59.68%
2013	115	1623	704	58,786	18,638	33,556	20,525	61.17%
2014	119	1641	657	64,356	15,082	37,843	23,236	61.40%
TOTAL	119	1641	657	506,488	185,289	303,176	190,641	62.88%

Note: CAM Success Rate in The Philippines, Philippine Judicial Academy, Philippine Mediation Center Office

As Courts are gearing towards speedy resolution of pending cases, Judicial Dispute Resolution (JDR) was issued (**En Banc A.M. No. 04-1-12-SC-PhilJA**). In general, the concept is that “*mediatable cases*” are referred to Court-Annex Mediation (CAM) for mediation under accredited mediators in the Philippine Mediation Center (PMC) and subsequently referred to Judicial Dispute Resolution (JDR) “*for further mediation by the judges*” if it is not resolved under CAM. If the case is still not settled in JDR, “*the case is transferred to the pairing court to proceed with trial*”.

JDR, formerly known as "pre-trial," involves a specialized judge (JDR judge) facilitating settlement discussions. However, unlike the old system, the actual pre-trial happens later with the trial judge. JDR can even occur mid-trial, and the JDR judge can sometimes take over the full trial if both parties agree.

To encourage resolution, JDR cases have strict deadlines: 30 days in lower courts and 60 days in higher courts. However, extensions are possible at the JDR judge's discretion.

Table 2. JDR Success Rate in the Philippines

YEAR	No. of JDR Sites (Clustered)	No. of Courts Covered	Total No. of Cases Preferred	Total No. of Back to Court Cases	Total No. of Cases Mediated	Total No. of Successful Mediation	Success Rate
2004	2	101	22		22	15	68.18%
2005	2	101	487		487	205	42.09%
2006	4	166	1,437		1,171	454	38.77%
2007	5	195	6,370	2,388	3,982	1,660	41.69%
2008	6	232	8,569	3,122	5,447	2,010	36.90%
2009	6	232	5,727	2,257	3,470	1,487	42.85%
2010	8	377	6,032	2,298	3,734	1,320	35.35%
2011	9	421	8,140	3,487	4,653	1,924	41.35%
2012	13	636	9,218	4,840	4,378	1,513	34.56%
2013	18	836	9,678	1,088	7,636	2,853	37.36%
2014	40	977	18,091	995	9,672	3,395	35.10%
TOTAL	40	977	79,368	20,475	44, 652	16, 836	37.70%

Note: Philippine Judicial Academy, Philippine Mediation Center Office, JDR Statistical Report as of December 2014

Table 2, despite describing JDR as an "enhanced pre-trial process," reveals a concerning trend. After the Philippine Supreme Court implemented the new JDR system in 2006, the success rate in pilot courts from 2007 to 2014 remained below 50%. This raises questions about the effectiveness of the enhanced JDR system compared to the previous methods it aimed to improve.

While court-annexed mediation (CAM) boasts a success rate exceeding 50%, the newer JDR system (judicial dispute resolution) falls short. This discrepancy might stem from the presence of judges in JDR as "mediators," unlike CAM's use of independent Philippine Mediation Center (PMC) professionals. Judges already burdened with hearings and case resolutions now face the additional task of facilitating JDR proceedings, potentially impacting their efficiency. Comparing CAM and JDR data suggests that Alternative Dispute Resolution (ADR) mechanisms might perform better when courts take a less direct role.

II. ODR as an Effective Mechanism for Resolving Commercial Disputes in the Philippines Based on the Experience of other Countries.

While ADR and ODR mechanisms share some common traits, such as lower cost, greater speed, more flexibility in outcomes, less adversarial strategies, more informal flow, privacy and solution oriented methods instead of blame-oriented techniques, it can not be denied that ODRs feature a host of unique features different from ADR, which include among others the following: (1) the fact that disputants do not have to meet face to face; (2) the dispute resolution process may occur at any time, regardless of geographical distance; and (3) the possibility of asynchronous communication (Katsh and Rifkin, 2001). With the rise of e-commerce, online dispute resolution (ODR) emerges as a potentially promising

mechanism for settling disputes. Though relatively new, ODR leverages established principles and practices from the field of Alternative Dispute Resolution (ADR), as noted by Hanf (2001). This potential is bolstered by the successful implementation of ODR in various countries worldwide, including Europe, the US, Africa, Australia, Latin America, Japan, China, India, Singapore, Malaysia, and Hong Kong. This study seeks to identify factors that promote and encourage the use of Online Dispute Resolution (ODR) as an effective mechanism for resolving commercial disputes in the Philippines. This directly addresses the question of how ODR can become a valuable tool in this context.

Cost-effectiveness. ODR obviates the need for travelling and substantially reduces cost. The disputants do not have to travel lengthy distances (Hanf, 2001). In the offline world of dispute resolution, if the parties want to be directly involved in resolving a given dispute, at least one of them would have to travel, sometimes far and wide. However, ODR enables the parties to participate in dispute resolution directly and actively from the comfort of their offices or houses. There is also no need to transport relevant documents and materials or rent a neutral facility to conduct the proceedings. The Internet provides a neutral forum which denies a one of the parties the potential to exploit the “home court advantage” (Victorio, 2001). Because a neutral does not have to travel either, parties can more easily find good candidates with specific expertise in the area of their dispute. As a result, ODR multiplies the substantial savings provided by ADR as compared with traditional litigation (Friedman, 1997) and therefore increases access to justice in today’s society (Teitz, 2001). In fact, as noted by Gibbons et al. (2002), ODR may be the only feasible option in many instances, for example, for individuals involved in international e-commerce disputes for relatively low amounts (Gibbons et al. 2002).

Speedy Resolution. Traditionally, Alternative Dispute Resolution (ADR) shines in offering quicker solutions compared to lengthy court proceedings, which can drag on for months or even years. This avoids disrupting business operations and maintaining healthy partnerships. Online Dispute Resolution (ODR) takes this speed to a whole new level. Disputes can be settled within days or even hours, thanks to the lightning-fast online exchange of information. Most ODR providers operate 24/7, unlike their offline counterparts. Parties simply access the provider's website and fill out electronic forms, further streamlining the process. In doing so, they eliminate any delays associated with receiving appropriate forms. Through internet easy accessibility, like for example e-mail, parties can easily obtain data and other information about their cases in real time (Shah, 2000).

Lower Costs. Online Dispute Resolution (ODR) eliminates the need for parties or their lawyers to be physically present, saving time and money on travel. Parties simply connect remotely to the chosen ODR platform from their workplaces, exchanging documents and data messages for the cost of a local call. This is a significant advantage compared to traditional courtroom proceedings, which often require in-person appearances, hearings, and meetings. Even if witnesses are needed or face-to-face interaction becomes necessary, ODR tools like instant messaging, video conferencing, or chat rooms can minimize travel costs.

Effectiveness of Solutions, Recommended or Imposed

ODR fosters agreement through digital convenience and reduced emotional engagement: Online Dispute Resolution (ODR) often leads to higher compliance with settlements and awards, either organically or through electronic enforcement mechanisms. Unlike court processes, ODR fosters a collaborative environment where parties directly participate in resolving the dispute. This personal involvement increases the likelihood of reaching a mutually agreeable settlement, similar to other ADR methods like mediation and conciliation. Even arbitration awards in ODR tend to be respected, despite occasional disputes. The electronic nature of ODR facilitates easier tracking and enforcement of agreements or

awards. Additionally, parties involved in online transactions likely already operate within secure digital marketplaces with established enforcement mechanisms, further supporting compliance. By removing the physical presence of parties, ODR can reduce emotional biases and encourage rational decision-making, leading to more sustainable solutions.

Based on the discussed benefits of ODR, the author argues for its potential as an effective tool for resolving online commercial disputes in the Philippines. Among other countries studied, the US model is deemed most suitable for adaptation. The US has been a pioneer in ODR development, stemming from its long history of using ADR processes (Wang, 2000). The Philippines, similarly, has historical roots in ADR through Spanish colonial laws and early Supreme Court support for arbitration. Recent studies show a growing influence of European and American legal systems in Asia, including the Philippines. This is evident in the Philippines' adoption of the US Federal Arbitration Act as a model for their own legislation (Republic Act No. 876). The US ODR system has demonstrated success, suggesting its potential applicability in the Philippines.

In summary, the Online Dispute Resolution (ODR) system in the United States is characterized by the absence of uniform legislation, prompting a reliance on self-regulation and best practice guidelines advocated by the American Bar Association (ABA). The ABA has played a pivotal role in formulating model ethical codes related to the legal profession, offering valuable recommendations and reports on Electronic Commerce disputes through the ABA Task Force. This Task Force emphasizes the importance of ODR providers adhering to adequate standards and codes of conduct, promoting transparency through information disclosure for sustainability. Additionally, the ABA Task Force recommends the establishment of the iADR Center, a non-profit educational entity. A significant development is the adoption of the Model Standards of Conduct for Mediators by ABA in September 2005, specifying nine standards of conduct for mediators. The American Arbitration Association (AAA) contributes to the ODR landscape by offering an efficient online claim filing system through AAA Web File, serving as an ODR platform with diverse functionalities. The AAA's International Center for Dispute Resolution (ICDR) introduced the Manufacturer/Supplier Online Dispute Resolution Protocol in 2010, designed to swiftly resolve small disputes through negotiation and arbitration. The process, known as the MS-ODR Program, aims to conclude within sixty-six days. Furthermore, the UNCITRAL Draft Procedural Rules for Online Dispute Resolution is suggested as an international guideline to harmonize ODR standards globally, addressing key doctrines such as ODR technology appropriation, confidentiality protection, enforceability conditions, ODR administration requirements, and trust mark scheme implementation. Such international guidelines are seen as essential for national legislative organizations to establish or amend ODR regulations, recognizing electronic communication in dispute resolution and incorporating ODR concepts.

III. Electronic online dispute resolution development in the current regulatory framework of the ADR law of 2004

An additional consideration revolves around the potential adoption of Electronic Online Dispute Resolution (ODR) as a supplementary mechanism for Alternative Dispute Resolution (ADR), prompting a debate on whether legislation is requisite for its regulation. Various jurisdictions have embraced divergent approaches to this issue. Notably, the United States and Canada have chosen a path of self-regulation. Similarly, the European Commission, through the E-Commerce Directive, advocates for self-regulation as outlined in Article 16, urging Member States and the Commission to promote such initiatives.

Conversely, certain countries, like the Netherlands, have taken steps to formalize and codify the regulation of Electronic Online Dispute Resolution.

In the Philippines, there is no perceived necessity for a distinct legislative enactment for Electronic Online Dispute Resolution (ODR), as it can be seamlessly integrated as an additional Alternative Dispute Resolution (ADR) mechanism under the existing ADR Law of 2004. The Supreme Court holds the authority, as per Section 5(5) of Article VIII of the 1987 Constitution, to promulgate rules and procedures across all courts, providing a simplified and cost-effective approach for the swift disposition of cases. This aligns with Section 2 of the ADR Law, affirming the State's policy to actively promote party autonomy and encourage the use of ADR for speedy and impartial justice.

Furthermore, the ADR Law does not hinder the Supreme Court from adopting any ADR system, including mediation, conciliation, or arbitration, for efficient case resolution. In line with this, the Supreme Court has implemented Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) to alleviate court docket congestion and empower parties to resolve disputes. The Philippine Judicial Academy's recommendation for mandatory mediation/conciliation in specific courts received approval, showcasing positive results in pilot testing.

Despite the success in certain areas, financial constraints have limited the extension of ADR services to other parts of the country. Notably, Administrative Matter No. 02-2-17-SC allowed the pilot testing of mediation proceedings in the Court of Appeals, demonstrating its viability in appealed cases. The Supreme Court, utilizing its rule-making power, later introduced the Judicial Dispute Resolution (JDR) system as an enhanced pre-trial proceeding under the JURIS Project.

Considering the Supreme Court's rule-making authority, there exists a potential avenue to promulgate special rules on ODR under the ADR Law of 2004. This is particularly relevant given its applicability to the E-Commerce Act and the issuance of the Rules on Electronic Evidence. Section 6 of the E-Commerce Act affirms the validity and enforceability of information in electronic form, emphasizing that electronic documents hold legal significance similar to traditional documents or legal writings. The Supreme Court's rule-making power provides a strategic means to incorporate ODR as a complementary dispute resolution mechanism in the evolving legal landscape. (Parlade, 2004).

IV. Adopting and Developing Electronic Online Dispute Resolution in the Philippines Without Massive Internet Connectivity

The digital landscape in Latin America faces challenges regarding access to online computers, particularly for those involved in offline transactions who may have limited familiarity or no access to computers (Szlak, n.d). Additionally, the cost of accessing broadband remains an obstacle to regional broadband connection penetration, contributing to the digital divide. In the Philippines, the situation is reflected in the limited internet users, constituting only 32.4% of the population as of December 2011 (Nielsen, 2011). Despite lower internet adoption rates compared to neighboring Southeast Asian countries, there has been exponential growth in Filipino internet users from 0.005% in 1994 to 9% in 2009, indicating a shift toward online engagement (Labucay, 2011). With the population growing to 107,668,231 in 2014, a corresponding increase in internet users is anticipated.

Iremae D. Labucay's research presented at the 2011 Annual Conference of the World Association for Public Opinion sheds light on internet usage in the Philippines. According to her findings, around 19% of Filipino adults accessed the internet or sent/received emails, amounting to approximately 10.7 million out of the projected 55.3 million Filipino adult population (Labucay, 2011). The study also revealed disparities

in internet access across socio-demographic groups, with lower socio-economic classes and rural areas having less access to computers and home internet connections (Labucay, 2011).

Labucay (2011) further indicates that internet use is higher in urban areas, the National Capital Region (NCR), and among upper-to-middle classes ABC, aligning with previous research findings (Garner & Oswald, 2001). The youth, aged 18-24, emerged as key drivers of internet use, comprising half of all internet users, while individuals aged 55 and above showed lower internet usage at 2% (Labucay, 2011). This age-related pattern aligns with stereotypes of younger individuals being more prolific internet users than older individuals (Chinn & Fairlie, 2004; Choi, 2008; Gardner & Oswald, 2001; Howard, Rainie & Jones, 2001; Norris, 2001; Smith et al, 2008). Despite the low overall internet use among adult Filipinos, survey data suggests that most non-users are proxy internet users, relying on family and friends for internet access (Labucay, 2011).

Regarding online activities, social networking emerged as the most popular among Filipino internet users, with consistent usage across socio-demographic groups. In contrast, Twitter usage was less common but more prevalent among higher socio-economic classes and the more educated. Younger users tended to engage in fun activities like playing online games, while older individuals leaned toward information-seeking activities, such as staying updated on current events (Labucay, 2011; Howard et al., 2002; Madden & Rainie, 2003). Notably, Labucay's study found that Filipino women were more likely than men to use the internet for information utility, particularly for accessing news on current events and health information, challenging findings in the United States (Labucay, 2011).

In order to facilitate the widespread adoption of Online Dispute Resolution (ODR) systems, governments play a crucial role in promoting public awareness and encouraging their usage through global accessibility initiatives (Wahab, 2004). In the Philippines, the government has addressed relevant concerns through the ePhilippines project, spearheaded by the Department of Transportation and Communication-Information and Communication Technology (ICT). This project encompasses strategic visions, including positioning the country as a World Class ICT Services Provider, providing government services online, creating an enabling legal and regulatory environment, ensuring affordable internet access for all segments of the population, and developing an IT-enabled workforce (Wahab, 2004).

To realize these strategic visions, the government has committed to principles such as fueling economic growth, reducing the cost of government, providing universal access, and building consumer confidence in e-commerce (Wahab, 2004). Specific ICT development strategies include long-term information systems planning, focusing on inter-agency systems, outsourcing application development, developing a single government portal, and implementing funding strategies. The government aims to support a legal and regulatory environment through programs like the development of the Philippine Information Infrastructure, lowering bandwidth costs, consolidating government networks, and promoting communal/collective access to information as a universal access strategy (Wahab, 2004).

Given the country's insufficient ICT infrastructure, initiatives are set to establish secure and reliable networks, develop a Philippine e-government portal, streamline and integrate frontline services using ICT, and build and maintain world-class government websites (Wahab, 2004). Recognizing the need for improved procurement policies, the government is formulating regulations for IT procurement, particularly under the Build-Operate-Transfer Scheme. Additionally, to address weak regulatory and administrative capacities in ICT development, the creation of a Department of Information and Communication Technology is proposed to oversee and guide the country's ICT efforts (Wahab, 2004).

Addressing security concerns is crucial to facilitate the placement of important information online and to instill confidence in citizens and consumers engaging in online transactions. The Department of Science and Technology's Information and Communication Technology Office has initiated the "Juan Konek Free Wi-Fi Internet Access in Public Places Project," aiming to provide free broadband Internet access to municipalities and key cities nationwide, promoting the vision of "Internet for All" (Wahab, 2004).

In the Asia Pacific (APAC) region, the Philippines stands out as having the most internet-intensive users, spending an average of 6.2 hours per day online via desktop or laptop and 2.8 hours through mobile devices, according to a study by ad agency "We Are Social" using data from Global/WebIndex. This digital engagement extends to social media, where each of the country's 34 million internet users spends an impressive 4 hours daily. This robust participation in social media presents a lucrative opportunity for brands, with the Philippine digital marketing industry projected to reach 8 billion pesos (\$179 million) by 2016, as reported by the Internet and Mobile Marketing Association of the Philippines (IMMAP).

Interestingly, online communication in the Philippines is not solely dependent on the internet; it also involves other technologies such as telephones or mobile phones. Recognizing the limited broadband access in key cities and growth centers, the government aims to provide broadband in selected key locations like industrial parks, ICT parks, business/trade centers, and regional centers. Additionally, there is an emphasis on passing a convergence law to enable the merging of telecoms, broadcast media, and broadband facilities for more accessible and affordable public ICT and internet access.

The Philippines has four major telecommunications companies, including PLDT, Globe, Digitel, and Bayan Telecommunications, with Liberty Broadcasting Network Inc. (Wi-Tribe) as a more recent entrant. Internet subscription rates are expected to rise from 24 percent of the population in 2009 to 31 percent by 2013, driven by falling PC and internet subscription prices. The mobile market, dominated by Smart Communications, Globe Telecoms, and Digital Telecommunications, is currently 77 percent penetrated, with an estimated 70 million subscribers. Mobile penetration is expected to rise to an estimated 147 percent by 2013, particularly in less-developed market segments.

Despite the impressive mobile market, it's worth noting that the Philippines is considered the SMS capital of the world, sending a staggering 1 billion SMS daily, constituting 20 percent of the world's SMS traffic. However, despite the country's robust telecommunications and digital network landscape, issues such as the availability, access, and usage of these technologies persist, especially in rural areas where there is a lack of both technology and knowledge on its basics.

To promote internationally competitive Small, Micro, and Medium Enterprises (SMMEs), the government is set to implement the SMMEs e-Development Program and offer incentives for these enterprises to engage in ICT services (Cabalquinto, n.d.). To enhance business competitiveness globally and cater to local needs, the government plans to establish a Port e-community evolving into a Trade e-community, identify and set up an IT hub in Mindanao along the BIMP-EAGA corridor, encourage the use of digital signatures, ensure intellectual property protection, strengthen security and privacy measures, and maintain high-quality private sector websites (Cabalquinto, n.d.).

To address the issue of inadequate public access to ICT facilities, the government will establish Multi-purpose Telecenters in municipalities and explore incentive programs for schools serving as venues for these telecenters (Cabalquinto, n.d.). In promoting E-Knowledge within communities and enhancing basic education standards, the government will develop guidelines for the enhancement of basic education to bolster the foundation for ICT knowledge (Cabalquinto, n.d.).

For the improvement of human resource competency in ICT, the government aims to increase the number of Filipinos with internationally standardized IT skills and raise ICT awareness and capability through formal and informal methodologies (Cabalquinto, n.d.). Addressing low literacy rates across the population, the government's SchoolNet initiative will connect public schools to the internet, facilitate internet access for students, and provide affordable broadband to key locations such as educational hubs and IT parks (Cabalquinto, n.d.).

To bridge the knowledge gap and ensure a more even distribution of technical know-how, the government plans to develop online distance education programs for short and full-credit courses through the internet or CD-ROM, establish virtual classrooms, and create policies and programs for e-learning, encompassing ICT learning (Cabalquinto, n.d.).

CONCLUSIONS

The findings of the study provide valuable insights into the effectiveness of traditional modes of alternative dispute resolution (ADR) in the Philippines, particularly from the adoption of the ADR law in 2004 up to 2015. The analysis of pending cases over the years reveals a complex interplay of factors influencing the caseload dynamics within the legal system. The initial stability in pending cases until 2006, followed by a significant decrease until 2011, suggests potential improvements in case management or the efficiency of the legal system during that period. However, a subsequent increase in pending cases in 2012 prompts further exploration into the factors contributing to these variations, such as legal reforms, changes in litigation patterns, or systemic adjustments.

The study emphasizes the impact of the ADR Law of 2004 on reducing pending cases, attributing this decline to the encouragement and active promotion of ADR systems as a means to achieve speedy and impartial justice. The introduction of Court-Annexed Mediation (CAM) is highlighted as a mandatory part of pre-trial, leading to a high success rate in mediation cases. The statistical data from 2002 to 2014 demonstrates the effectiveness of CAM, with a success rate consistently above 60%, reaching as high as 84.29% in 2002. Additionally, the introduction of Judicial Dispute Resolution (JDR) is discussed, with a focus on its procedures and success rates. However, the data suggests that JDR has been less successful compared to CAM, with success rates consistently below 50% from 2007 to 2014.

The study concludes that ADR without the court's participation, as seen in CAM, has been more successful in resolving cases. The analysis provides a nuanced understanding of the factors influencing the effectiveness of different ADR mechanisms, emphasizing the importance of considering court involvement in the dispute resolution process.

Moving on to the examination of Online Dispute Resolution (ODR) as an effective mechanism for resolving commercial disputes in the Philippines, the study draws on the experiences of other countries. It highlights the unique features of ODR, such as the absence of face-to-face meetings, geographical flexibility, and asynchronous communication. The study argues that ODR, with its cost-effectiveness, speedy resolution, and effectiveness of solutions, can be a valuable tool for resolving commercial disputes. The experiences of various countries, including European nations, the United States, Africa, Australia, and others, are cited to support the adoption of ODR in the Philippines.

In the context of the current regulatory framework of the ADR Law of 2004, the study explores the potential adoption of Electronic Online Dispute Resolution (ODR) as a supplementary mechanism. It discusses different approaches taken by jurisdictions, with some advocating for self-regulation and others formalizing the regulation of E-ODR. In the Philippines, the study argues that existing legislation,

particularly the ADR Law of 2004, provides a basis for integrating E-ODR without the need for distinct legislative enactment. The Supreme Court's rule-making power is emphasized as a means to promulgate special rules on E-ODR, aligning with the State's policy to actively promote party autonomy and encourage the use of ADR for speedy and impartial justice.

The final section addresses the challenge of adopting and developing E-ODR in the Philippines, considering the country's internet connectivity limitations. The study acknowledges the digital landscape's challenges, particularly in Latin America, and points to the Philippines' growth in internet users despite limited internet adoption rates. It provides a detailed analysis of internet usage patterns, socio-demographic disparities, and online activities in the Philippines. The government's initiatives, such as the ePhilippines project, are highlighted as efforts to address these challenges and promote internet accessibility. The study suggests that improving internet access, particularly in rural areas, will be crucial for the widespread adoption of ODR systems.

In summary, the findings and discussions in the study contribute to a comprehensive understanding of the effectiveness of traditional ADR mechanisms in the Philippines, the potential of ODR for resolving commercial disputes, and the challenges and opportunities associated with adopting E-ODR in a context of limited internet connectivity.

RECOMMENDATIONS

The study underscores the need for continuous theoretical exploration into the dynamics of alternative dispute resolution (ADR) in the Philippines. Future research should delve deeper into the intricate interplay of factors influencing caseload dynamics within the legal system, with a focus on understanding the fluctuations observed from 2006 to 2011 and the subsequent rise in pending cases in 2012. Theoretical models could be developed to analyze the impact of legal reforms, changes in litigation patterns, and systemic adjustments on ADR effectiveness. Additionally, a nuanced examination of court involvement in ADR processes, as highlighted by the study, is crucial for refining theoretical frameworks and guiding future legislative and procedural developments.

Practical insights from the study call for targeted interventions in the existing alternative dispute resolution (ADR) mechanisms. Policymakers should consider refining case management and legal system efficiency, drawing from successful periods observed in the study. Training programs for mediators involved in Court-Annexed Mediation (CAM) should be instituted to ensure the sustained success of this mechanism. The less successful Judicial Dispute Resolution (JDR) procedures should be re-evaluated, and potential reforms introduced to enhance success rates. Incentives for litigants engaging in ADR without court participation, modeled after the success of CAM, could be explored. Practical adjustments in policy and procedure, aligned with international experiences, are crucial for optimizing the potential of Online Dispute Resolution (ODR) for resolving commercial disputes in the Philippines.

The study sets the stage for future research by highlighting the potential integration of Electronic Online Dispute Resolution (E-ODR) in the Philippine legal landscape. Subsequent research endeavors should delve into the practical implications of adopting E-ODR, exploring different regulatory approaches and assessing their effectiveness in the context of the ADR Law of 2004. The study points to internet connectivity limitations as a challenge, thus future research could focus on developing strategies to overcome these barriers, evaluating the impact of government initiatives like the ePhilippines project, and proposing innovative solutions to ensure widespread adoption of E-ODR. The dynamic nature of

technology and its intersection with legal frameworks suggests a rich area for ongoing research, ensuring that the legal system remains adaptive and responsive to evolving dispute resolution needs.

DATA AVAILABILITY STATEMENT

The study contains original contributions which are detailed in the article or supplementary material. further inquiries can be directed to the corresponding author.

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CONFLICT OF INTEREST

The author guarantees that the research was conducted without any commercial or financial relationships that could pose a potential conflict of interest.

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