



## Necessity of Online Dispute Resolution (ODR) in Family Matters and Legal Implementation of Online Court System

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### ABSTRACT

Technology is transforming Alternative Dispute Resolution (ADR). Defying long-held assumptions that developing empathy, broadening understanding, and coming up with solutions are only possible in person, effective approaches for assisting in the resolution of the growing number of arguments that have developed online have emerged. Technology has become the "fourth party" in settling disputes, thanks to the developing field of Online Dispute Resolution (ODR), which includes the use of technology and computer-mediated communication (CMC) in negotiation, mediation, arbitration, and other dispute resolution processes. ODR is being used by courts in numerous countries for family-related matters. The expectations and duties that are placed on the ODR community and its practitioners are examined in this research, which uses a qualitative technique. In particular, the study emphasizes the importance of ODR in resolving family disputes, critical moral standards for the technology used in ODR, and critical moral standards for the technology used in ODR, and makes suggestions for how Pakistan's judiciary can enhance its current online court model to facilitate greater access to justice and speed up the entire adjudication process. The paper also offers ideas on how the judicial system might continue to disseminate information with integrity, quality, and promptness.

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## 1. Introduction

With regard to technology, our life context has dramatically changed. The usage of mobile and online platforms for activities such as chatting with friends, working, organizing daily plans, and making purchases signaled the transition from face-to-face (F2F) interaction to these platforms in the second half of the 20th century (Kemp, 2019). As the 21st century draws to a close, our dependence on technology has allowed us to communicate with virtually anything or anyone at any moment of the day or night. We expect this constant connectedness, which has already become a crucial aspect of our everyday lives, to grow further as new features and capacities are made available. We no longer distinguish between the online and real worlds when going about our everyday lives since the lines between them have blurred (M. E. Katsh & Rabinovich-Einy, 2017). The ubiquitous use of technology has raised expectations that a variety of jobs, such as grocery shopping, tax filing, obtaining medical information, and even generating and sharing digital material, may be done online. Nearly every aspect of civilization now uses technology to some extent, making it widespread. As a result, we find it annoying when a government entity demands on our personal presence for document validation or when a claims department asks us to fax a letter. Traditional methods of resolving disputes, both in and out of court, also seem antiquated in light of the efficiency provided by technology.

It may be argued that compared to other industries, the judicial and alternative dispute resolution (ADR) systems have lagged greatly in the adoption of technology (Schmitz & Wing, 2021). It should come as no surprise that the massive, underfunded courts, which already require

change, find it difficult to use technology beyond simple case management improvements. Assumptions that "excellent" ADR must only rely on F2F communication's unique ability to build understanding and empathy are made when proposals for integrating technology into ADR procedures (Wing & Rainey, 1996). Many traditionalists in ADR believe that F2F settings that foster collaborative, context-specific, and creative solutions are optimal for mediation in particular (Sternlight, 2020). Why, therefore, would a sector that is dedicated to F2F interaction avoid using tools and settings that are designed for electronic correspondence?

However, some practitioners have begun to do so in response to need, practicality, and the changing demands of disputants. While many members of the ADR community have been reluctant to adopt new technology. This has led to the development of ODR, which entails leveraging technology and CMC, including mobile phones, to expedite negotiation, mediation, arbitration, and other procedures for settling disputes both online and offline. ADR was originally thought of as a cutting-edge method for resolving family conflicts, but ODR has since taken center stage and is now often used in such circumstances. ADR ethics have been under greater scrutiny as a result of the development of artificial intelligence (AI) and other technologies, which has led to new ethical issues for practitioners (Wing, 2016).

Therefore, it is not surprising that parenting plans are being developed online by parents who are divorcing or living apart. Why would individuals insist on F2F processes when they can communicate effectively online and go about their everyday lives? Why would people go down to a mediation office, spend money taking time off work to sign the paperwork, fill it out, and mail it in, then wait an undetermined amount of time for a ruling or court order? Even in family issues, people seek quick and simple answers. When seeking assistance from legal and ADR specialists to settle disputes, consumers may start to demand the same levels of simplicity and accessibility that they have grown accustomed to receiving medical advice online, sharing information with ease, and accessing information supplied by others. In response to this rising expectation, some ADR practitioners are encouraging information transmission through digital formats and using collaborative technologies.

Technology is unquestionably changing the way that law and dispute resolution are practiced, as it is with the rest of our society. This presents a significant opportunity to extend access to justice as well as a need to improve convenience and efficiency (Russell, 2013). Because technology may cut down on expenses related to time, travel, and the need for legal and ADR practitioner help, it is conceivable to overcome barriers to justice in an ethical way. In face-to-face ADR, practitioner time alone can be a considerable expenditure that can be greatly diminished by ODR. These are crucial factors to take into account in a subject that is dedicated to enhancing access to justice. But as our reliance on technology grows, so do ethical conundrums, like the possibility of lessening responsibility and transparency.

The goal of this study is to examine the benefits and moral conundrums of ODR. It explores the application of technology to many types of negotiation, mediation, arbitration, and similar procedures, particularly those that incorporate computerized decision-making. It also looks at how technology is used in classic F2F ADR processes. As mentioned above, ODR enables people to settle conflicts quickly and cheaply without incurring expenses or problems related to travel or time away from work (Ethan Katsh & Rule, 2016). We contend that ODR presents significant prospects to boost efficiency and provide new paths for remedies (Rule & Schmidt, 2018). For those who have trouble cooperating in face-to-face (F2F) encounters, ODR can help with communication and decision-making. ODR can assist reduce some of the drawbacks of face-to-face engagement, such as increased stress, by offering streamlined communication tools and efficient management of challenging making decisions (M. E. Katsh & Rabinovich-Einy, 2017).

It is a reality that in emerging nations like India, Malaysia, and Indonesia as well as in established nations like the USA, Australia, Canada, and the UK, all relevant professional groups, judges, and court administrators are arguing in favor of ICT (Sabela, 2016). The formal judicial procedure enthusiast still holds certain misgivings, which explains their reluctance to embrace modern technologies. The fact that they opposed the ADR's widespread adoption, meanwhile, may have been one factor in their determination to keep on as usual. In certain nations, such as Pakistan, it has taken a while to establish, and the same is true with online courts, but it is a quick system of adjudication. (Zafar Iqbal Kalanauri, 2020) In order to ensure that the effectiveness and efficiency of the adjudication system are increasing daily, online courts were

built and put into use in a number of industrialized and some developing nations (Zain et al., 2018).

ICT is not regarded by the Pakistani judiciary as a weapon for quick justice administration or corrective justice in Pakistan (Iqbal Kalanauri, 2021). ICT was, nevertheless, sufficiently embraced in the legal area during the past two decades, and it has become a crucial component of the administration of justice in the higher judiciary. (Munir, 2005) Online courts would be a step in the right direction towards modernizing Pakistan's judicial system. The judicial system in Pakistan lacks an ICT-based court structure, but it is now moving toward virtually building a new path for the digitization of the institution. ICT may be used for the advancement of the administration of justice. These cutting-edge investigations, which will also examine artificial intelligence with the aid of ICT, include the ability for online courts to connect via a video connection from the jail, registry, and witnesses to the court (Iqbal Kalanauri, 2021).

The online courts' concept originated from two ideas: the first is the use of ICT, and the second is referred to as green courts. Following this formal legal procedure, Pakistan would require many years to balance the case pendency rate, even if our judges sat in court continuously for 24 hours a day. In contemporary nations, the use of online courts as a form of justice has been quite effective. Most courts are now working on making their jurisprudence or process public on their websites (Lupo & Bailey, 2014). However, they can allow litigants and attorneys to follow legal procedures virtually through online courts, with the exception of those that are secretly recorded. In certain nations, online courts have already made it possible for people to file their original petitions without the help of attorneys by sending them electronically immediately through their online site. It is acceptable to electronically admit papers that are authentic and original (Bueno, Ribeiro, Hoeschl, & Hoffmann, 2003). The following nations, including Malaysia, Indonesia, Singapore, and India, are putting the green idea into practice and running their own online court systems to avoid the usage of conventional paper-based working methods in developed and developing nations (Singh, Sahu, Dwivedi, Rana, & Tamilmmani, 2018).

## **2. The Advantages of ODR in Family Cases**

Many ODR platforms are intended to deal with isolated or discrete disputes, such as a defective product that was delivered following an internet order for a replacement phone. These platforms frequently offer a simplified method for settlement, allowing parties to settle the dispute swiftly and effectively without the need for in-person meetings or drawn-out court battles. ODR programs, which are sometimes mistaken by customers for simple customer service, are actually tools for addressing and resolving online disputes. Many e-marketplaces, in their wisdom, employ them to assist you to resolve your claim swiftly and simply. This increases customer satisfaction and encourages repeat business (Rule, 2020). Therefore, for these kinds of purchase disputes, transactional ODR can be quite effective. (Transaction Disputes | Amazon Pay Help, n.d.) However, there are also issues being raised regarding the potential for "public institutions and commercial enterprises that may construct ODR programs to have interests other than promoting justice" (Sternlight, 2020) and the moral issues this might bring up.

A family dispute is more complicated, but it is still ripe for ODR to be used in enabling families to find settlements with less turmoil and higher satisfaction (Kourlis & Samnani, 2017). ADR technology integration also brings up difficulties with design and ethics. Despite this, there are now more than a dozen different platforms for family ODR, which may indicate that the benefits of ODR are substantial, (List of Approved Dispute Resolution Service Providers - ICANN, n.d.) some of these family ODR platforms are even required to be utilized by litigating families by the courts. Many of these platforms are offered by for-profit businesses from across the globe. (Practitioners - Court Approved Co Parenting App to Manage High Conflict Custody Cases, n.d. - a) Co-parenting e-calendars, videoconferencing, collaborative writing software, artificial intelligence, and other technologies are all being used by ODR platforms to speed up the resolution of family conflicts. In order to provide families with high-quality dispute resolution services in the twenty-first century, entrepreneurs from both inside and outside the ADR business are developing these technologies, which are helping to expand and improve ODR platforms and services.

That is a valid point. While ODR may have certain benefits, such as lowered tensions and more convenience, it may not always be the best course of action for conflicts, especially those that call for a more individualized approach. For instance, expressing empathy and face-to-face

engagement while dealing with emotional concerns might be difficult using technology. Therefore, it is crucial to take into account the particulars of each disagreement in order to choose the best course of action, whether it be ODR or in-person mediation. By use of video conferencing, which doesn't require everyone to be present and travel to the same location for a session, can enable F2F interaction while also utilizing the advantages of physical distance. This can increase safety and cut down on time and expenses while also allowing for F2F engagement.

Technology may be used to resolve family disputes in addition to F2F meetings, which has additional advantages. In order to manage family conflicts, parties may be able to come up with more innovative solutions if CMC and other technology are used (Welton, Pruitt, & McGillicuddy, 1988). When parties are concerned about voice loss, it may be very crucial to consider adopting this (i.e., when the parties are engaging in substantial power imbalances or intense manipulation) (Trujillo, Bowland, Myers, Richards, & Roy, 2008). It could be crucial in situations when cultural or personal preferences call for face-saving, which makes F2F communication more challenging (Schmitz, 2016). In communicating through a computer or smartphone, there may be a feeling of "safety."

Some parties opt not to participate in F2F procedures at all, or only for a portion of the sessions, for a variety of reasons, including efficiency and conflict de-escalation. Exactly! Asynchronicity is a significant benefit of ODR that enables parties to get over the drawbacks of face-to-face communication and adjust their hectic schedules and geographical constraints. Individuals who would not have been able to engage in ADR in the past owing to these circumstances may now have better access to justice. The ability to take the time to carefully evaluate replies and acquire data may also assist parties make more informed decisions, which will eventually result in a more agreeable solution. It's important to highlight that just because ODR is employed, F2F solutions are not automatically out of the question. In some phases of mediation, or even as the main platform for the entire process, the use of video conferencing technology can be a useful tool. Even using mobile phones has become smooth because of the considerable and quick advancements in software. Furthermore, by attending F2F meetings, intervenors and parties may still take advantage of technological advancements by using tools like instant messaging, collaborative writing, agenda and document sharing, and brainstorming software (Dennis, Rennecker, & Hansen, 2010).

The benefits of using technology in practice are becoming more and more apparent to legal professionals and ADR providers. It seems sensible that third-party practitioners would benefit from ODR as well as the disputants as it would enable them to collaborate with the parties and facilitate resolutions with less expense and fuss while seated in front of their computers or cellphones. It would appear that third-party practitioners can gain from technology-based communication techniques since they can minimize time spent away from friends and family, boost productivity through online operations, and avoid meeting room rental costs. Offering reduced rates as a result of these cost savings can be done without reducing the practitioners' overall pay (Carrel & Ebner, 2019).

The reality of generational differences is a crucial point to remember while using technology to manage family disputes. There is a significant age-based digital gap, which is frequently the "elephant in the room" when discussing ODR usage. Consequently, older persons who were not raised with new tech are less inclined to trust and use online platforms for communication and dispute resolution (Schmitz, 2018). In contrast, CMC and technology-driven communication systems are what digital natives demand and expect. Digital natives, who have grown up with technology permeating almost every part of their life, would value the opportunity to communicate with people they care about using the same tools they use every day while also avoiding the appearance of being "dragged" to a mediation session all over town (Schmitz, 2019).

To summarize, using technology to resolve family disputes is a good idea. In the end, parents want what is best for their kids, and the majority of them want their parenting conflicts to be settled in a way that will allow them to continue being parents even after a divorce if necessary. ODR may assist families in this situation by facilitating online parenting plan negotiations that are less costly and complex (Kourlis & Samnani, 2017). Technology-based solutions can improve the ADR process and its critical elements that help families through different stages of relationship transformation by modifying the amount of engagement as needed. A group of experts can assist families in navigating complicated challenges involving emotions, money, legal concerns, and psychology with the use of technology. Technology may

be a very useful tool, for instance, in the situation of a divorced couple with three kids who must coordinate and interact with several specialists to co-parent both during and after the divorce. Technology may help people as they work through family difficulties and try to maintain healthy connections throughout time (Shepherd & CDFA®, 2019).

### **3. Use of ODR in Family Cases Around the World**

#### **3.1. United States of America**

A web-based program called Up To Parents ([www.uptoparents.com](http://www.uptoparents.com)) encourages parents to evaluate and consider their duties to their children. Parents note the commitments they are able to make on a standard form of contract that is given. A parenting agreement is generated by the system, which also stores any provisions on which both parents can agree. The aim of mediators was to "assist the couple in redefining their relationship from that of couples to that of parents jointly accountable for their children" (Fisher & Brandon, 2002). This instrument accomplishes that task. It permits direct negotiations between parties but strictly regulates such negotiations to lessen the risk of the growing conflict.

The website Our Divorce Agreement ([www.ourdivorceagreement.com](http://www.ourdivorceagreement.com)) offers couples seeking an uncontested divorce the option of concluding their divorce agreement online. Despite being situated in the USA, this website offers an uncontested divorce agreement from Australia as well as papers for submitting to the Australian Family Court online. Despite the fact that there was no conflict between the parties during the separation, the website nonetheless provides the options of discussion and mediation. A connection to the American mediation service Mediation First ([www.mediationfirst.com](http://www.mediationfirst.com)) and access to mediation services are also provided. It also offers a webpage for parent scheduling. Numerous mediation techniques, such as in-person mediation, teleconferences, and online audio and video conferences, are available through Mediation First.

When ODR technologies were initially introduced in 1996, one of the pioneering experimental initiatives was the University of Maryland Online Mediation Project. For family and medical issues, it offered email mediation services in accordance with Maryland law. A family conflict mediation process is now accessible online thanks to the initiative (E. Katsh, 1996).

#### **3.2. Australia**

An Australian computer application called Family Winner was created "to give negotiating decision help" to the country's family law system (Bellucci & Zeleznikow, 2005; Zeleznikow & Bellucci, 2003). According to the Family Winner approach, the spouse must individually list their top priorities and give each one a weighting. The application makes use of the information given to create trade-off guidelines for the husband and wife and produce results for them to think about (Zeleznikow & Bellucci, 2003). Based on three basic presumptions, the Family Winner programme functions. The first benefit is that the disagreement may be modelled using that ethical bargaining. The second point is that each of the disputed points can be given a weight. Finally, there are sufficient points of contention for each side to be made whole for whatever points they could lose.

Split Up, another program created by John Zeleznikow during the past ten years concentrates on how each party makes decisions and helps parties choose how to divide property in family court cases (Sourdin, 2005). To predict the likely outcome of a certain bargaining demand, an artificial intelligence program examines a database of Australian family court judgments. Utilizing the method has the effect of informing parties of the possible outcomes of making excessive demands, which leads to a reduction of bargaining tactics.

Family law mediation over the internet is supported through the websites of Relationships Australia and the Family Court of Australia ([www.familycourt.gov.au](http://www.familycourt.gov.au) and [www.relationships.com.au](http://www.relationships.com.au), respectively). On these websites, you may get in-depth information about the Family Court's procedures as well as the difficulties that separated families must deal with.

The Federal Government created two new websites, Family Relationships Online ([www.familyrelationships.gov.au](http://www.familyrelationships.gov.au)) and the website for the Family Law Courts ([www.familylawcourts.gov.au](http://www.familylawcourts.gov.au)), in advance of the revisions to the Family Law Act that would take effect in July 2006. These websites include contact information for support or counselling options, information on novel approaches to addressing family issues, and dispute resolution services to

families and couples going through a divorce. Other websites, such [www.idont.com.au](http://www.idont.com.au), which bills itself as a comprehensive online divorce directory, and [www.divorce.com.au](http://www.divorce.com.au), which was made by a family law firm, provide online divorce application services but do not offer ODR processes. Despite this, these websites provide a crucial informational purpose.

### **3.3. Canada**

In order to complement both in-person and online mediation sessions, Smart Settle ([www.smartsettle.com](http://www.smartsettle.com)) provides a family dispute resolution procedure in Canada. To reach the best negotiating outcome, parties define and rank their preferences before engaging in a process of exchanging different desires (Thiessen & Zeleznikow, 2004). If the parties are not able to meet in person due to distance or another factor, Smart Settle also offers to perform the complete family mediation procedure online.

By offering web-broadcast teleconferencing and collaborative document collaboration tools, Family Mediation Canada (Brannigan, 2004). has embraced modern technology to help its members who mediate family conflicts. As a result, clients and mediators who may not be in the same place may communicate and work together more effectively.

## **4. Further International ODR Practices in Family Disputes**

ODR offers excellent substitutes for conventional ADR, especially for longer-term collaboration among several stakeholders. The increased availability to help and possible increase in employment prospects may be very advantageous for impacted families as well as the professionals who work with them. CoParenter is an illustration of an ODR platform that helps separated, divorced, and never-married parents manage co-parenting responsibilities, create parenting and vacation schedules that are acceptable in court, resolve conflicts, and make better decisions with the best interests of the children in mind that spare them money and time and keep them out of court. Even after an agreement has been reached, users have access to on-demand mediators at various stages of the procedure as an earlier, middle, and later-stage intervention tool to help parents understand their conflict and lead them towards legally binding, child-centric decisions. And you're right. In order to help separated, divorced, and never-married parents manage their co-parenting responsibilities, create court-acceptable parenting and vacation schedules, resolve conflicts, and make more informed, child-focused decisions that save them money and time and keep them out of court, CoParenter, a privately run social business, provides an ODR platform. Co-parents may use the app to schedule events, keep track of schedules, assign duties, and preserve accurate records of the talks and actions that are recorded within. CoParenter is not connected to or a substitute for a real court, however, when it comes to legal problems (CoParenter - The #1 Co Parenting App, 2018).

Our Family Wizard is another ODR supplier that is offered for family-related issues. This platform offers parents a number of tools for arranging meetings and visits, keeping track of visitation schedules, drafting reimbursement requests, processing payments, communicating about the aforementioned subjects, and keeping notes about their conversations (Tools for Conflict Free Co-Parenting, n.d.). Parents may create additional accounts on this site for any participants they like, such as their therapists (Third-Party Accounts | OurFamilyWizard, n.d.). Even while Family Wizard is not subject to judicial oversight, several in the United States and Canada have made its usage mandatory during custody disputes. For mediators, lawyers, and other professionals, the website also offers professional accounts to assist with this. Professionals may use the platform to connect with customers, and in some situations, they can also monitor how their children are using the program (such as parent-to-parent communication), (Practitioners - Court Approved Co Parenting App to Manage High Conflict Custody Cases, n.d.-b).

Another ODR service provider operating in the market is named CREK, (CREK, n.d.) and it provides a variety of ODR services for different sorts of conflicts, including those involving families. The business's platform covers every step of the ODR procedure, including diagnosis, automated negotiation, mediation, evaluation/arbitration, and adjudication. The workflow and rules engine, private and shared caucus discussions, collaborative editing of settlement agreements and awards, timetable, scheduling, notes, and support for several languages are all features that help with the resolution process. This website is intended not just for family members, but also for friends and coworkers that interact with the user . I have rephrased this information using my own language and sentence construction, but I have kept the original intent. To acknowledge the information's original source, I have also added a citation.

MyLaw B.C.'s digital platform offers "pathways" for resolving various legal issues online, such as abuse, divorce, family violence, wills, late mortgage payments, and estates. (Free Help for Legal Problems | MyLawBC by Legal Aid BC, n.d.) Through a restricted ODR service, divorcing couples can create a separation agreement online and research their options for addressing family law concerns. A handbook on what to do after receiving court documents is also included in the programme. Couples can communicate on the website using the conversation tool to discuss their issues and come to a settlement outside of the legal procedure (Dialogue Tool for Separation Agreements | MyLawBC, n.d.).

Along with the previously stated Our Family Wizard, courts also use various ODR tools for family issues (Schmitz, 2018a). For family disputes, some courts have used Tyler Technologies' Modria (Clark County Family Mediation ODR Case Study, n.d.). The ODR platform Modria has processed over a million cases spanning a variety of conflicts kinds, including those involving families (Online Dispute Resolution Software | Tyler Technologies, n.d.). Modria provides a range of capabilities, including customized modules, document sharing, negotiating tools, and a chat element that may be watched by mediators or other experts. Modria also makes it simple for third parties to be included if the parties decide to go from negotiation to guided cooperation or evaluative decision-making.

Another platform is the Circuit Court in Ottawa, Michigan which uses ODR for family cases. They've shown how ODR can end child support arrears and stop show-cause hearings. The framework for these services is provided by Matterhorn, an ODR supplier with a Michigan basis that has reported successful outcomes from this family ODR program. Before the implementation of ODR in 2016, the court processed more than 100 show-cause hearings per week. After the first year of the program, however, the number of show-cause hearings decreased by 24% and the number of failure-to-appear warrants also decreased by 29%. As of 2018, show-cause hearings were reduced to approximately 300 per month ("Family Court Results," n.d.). The Matterhorn platform allows for secure communication between court personnel, case managers, and involved parents. It also allows the court to send automated notifications through text or email ("How It Works," n.d.).

In order to promote innovation in the creation of technology-based conflict resolution solutions, many initiatives are now under progress. In a report released in 2017, the Institute for the Advancement of the American Legal System (IAALS) advocated for the creation of an ODR ecosystem to aid people in identifying family law issues, facilitate online dispute resolution, point them in the direction of useful resources, and support them throughout the court process. This proposal illustrates several important concepts: 1) ODR might include more than simply direct help; it can also include a range of dispute resolution-related features, such as mediation, negotiation, or arbitration. 2) Initiatives to improve access to justice may be more successful if courts, family law specialists, ODR developers, legislators, and ADR practitioners collaborate. 3) To increase access to efficient and effective ways of establishing stronger relationships and resolving disputes in the spirit of ADR, technological innovation is now under progress. The overall objective is to develop ODR systems that put an emphasis on developing problem-solving skills and satisfying the requirements of those seeking resolution while making these services easily accessible (Kourlis, 2017). An excellent illustration of the added benefits obtained while developing ODR conflict settlements is the use of a varied range of partners and the thorough use of technology.

ODR is finally affecting family law and family ADR procedures after 20 years of servicing e-commerce. For example, Divorceify, (Divorceify - Crunchbase Company Profile & Funding, n.d.) Equitable Mediation, (Services, n.d.) Its Over Easy (It's Over Easy | Online Divorce | Start Your Filing Today, n.d.), and numerous more ODR providers (Shepherd & CDFA®, 2019b) in the family law sector are just a few examples of the various ODR tools and ADR providers besides those mentioned above. Technology offers new opportunities to assist parties, speed up access to justice through less expensive means, increase employment for third parties, and possibly resolve issues that traditional face-to-face ADR methods have been unable to adequately address. As technology becomes more common in managing family disputes, it presents fresh prospects to assist parties. There are several unknowns and higher danger, though. Therefore, it should come as no surprise that efforts are being made to develop ODR ethical guidelines, benchmarks, and best practices.

## **5. Implementing an Online Court System and The Usage of Information And Communication Technology (ICT) in Pakistan**

ICT is increasingly being used around the world to complete work in a short amount of time without the need for human resources and to create a cost-effective management system for the courts. The formal delivery of justice is another mechanism that judges wish to replace with the swift dispensation of justice. (Vol, 2017) The ability of online courts to administer justice fairly and consistently to all parties depends on the caliber of ICT-related applications. Additionally, in a scenario where data and records are not properly managed. The legal rights of people and society would be prevented if applications for the online court are denied to judicial institutions because the court of law is unable to render an unbiased and comprehensive judgment of high quality (Begum, 2008). A system that allows for the retrieval of case-related ICT also guarantees that the parties and public will receive justice quickly. The information of disputing parties, the record of events, the evidence, and affidavits or statutory declarations in the online court system have numerous aspects. Therefore, precedents from Superior Courts as well as references to legal sources are available in online court documents. (Saman and Haider, 2013)

Additionally, as a result of increased public literacy and technological knowledge, the usage of ICT in the online court system is growing daily. It is imperative that the government create a 24/7 online court system while also automating its administrative and business processes in the era of 4G internet and ICT (Zain et al., 2018). In order to deliver quick, dependable, and consistent judicial services to society, ICT is opening up new opportunities for legal services all over the world (Saman and Haider, 2013).

Pakistan is now making efforts to modernise its court system, which only partially makes use of technology. By implementing an online case management system, the Islamabad High Court and Lahore High Court have made the first move towards digitising the legal system. The IHC system is more sophisticated, and a mobile application has been released to display daily cause lists of cases, including the names of solicitors. After July 2019, the Chief Justice and other Supreme Court of Pakistan justices will begin using video conferencing to hear cases in significant seats from other SC registries in Pakistani provinces in an effort to speed up the administration of justice (admin, 2019). To determine whether ICT applications are compatible with the Pakistani online courts' paradigm or not.

### **5.1. System for Case Management**

ICT is focused and has a significant impact on the transition to a virtualized way of life. ICT cannot be managed well without human guidance, hence the human element's engagement in its application is a crucial element (Grieco & Bhopal, 2005). It is a proven truth that when ICT is used effectively, there are significant improvements in human existence. As a result, it considers delivery methods that maintain quality, openness, and public accountability in mind for the quick delivery of justice (Prakash, 2014). In order to integrate decision support systems in online courts, a system for case management is a must. It contains appropriate procedures that were designed in accordance with the court's ICT infrastructure to assist the effective transmission of legal services and decisions (Verma, 2018). The System was created primarily to increase the effectiveness of court case management services. Prior to this, the courts handled cases through the traditional system of court processes. Court processes are now more safeguarded and organized thanks to their development. However, court employees, officials, and judges can quickly access this system directly via their official Portal (Saman and Haider, 2013).

The Islamabad High Court and the Lahore High Court in Pakistan launched an online case management system that also contains a number of sub-modules and services, including "e-filing" for document submission and "e-registration" for advocate and case registration. During court proceedings, the system also has a queue management capability for solicitors and parties. Following e-filing and e-registration, this queue management system is the first stage in the case management system for court procedures (K. H. Hassan et al., 2016). The process begins with a line of advocates and participants reporting for duty; often, the case under consideration in the procedure is presented on the LCD. The representative then has to wait for his call on the case. The matter can, however, be heard virtually or via video conferencing in online courts. (Nwandem, 2015) The attorneys may face sanctions for failing to cooperate on time under this system, which is quite fair and methodical. (K. H. Hassan 2011) The Islamabad High Court (IHC) online system for case management is far more sophisticated and equipped than the system that



Lahore High Court (LHC) has introduced. However, as it is acceptable for online courts to be used worldwide as a quick and affordable justice delivery method, it needs to be installed properly and procedures must be followed.

### **5.2. Online Document Submission and Filing**

Online submission and filing are used to register attorneys, submit petitions (cases), and submit other documents via the courts' online portal while utilizing the system for case management. (Ahmad, 2012) To utilize the online filing system, one must first understand that it discourages the use of paper owing to the new idea of "Green," thus attorneys and other parties interested in the case must "scan" their petitions and documents. The online courts do not use paper documents or other tangible documentation. (Purohit, 2017) However, this is still in the early stages of development, and the courts are gradually implementing this paradigm. When filing a case, the court fee and service fees are paid online or using an internet banking system. The attorneys and parties concerned are assisted in the management and timely filing of papers through online filing and document submission. (K. H. Hassan 2011) The courts in Pakistan do not currently manage cases utilizing this technique. However, this online filing approach is partially adopted by the quasi-judicial forms.

### **5.3. System for Queue Management**

It is an online method for managing cases that require the participation of attorneys and other parties in order for the court to make a decision. When a lawyer arrives in the courthouse, they must register their presence at the registry counter. The other method of attendance is online through the portal. Attorneys and parties wait after registering attendance until it is their turn to be called for court proceedings and the case hearing. (K. H. Hassan et al., 2016) In this arrangement, some courts would prioritize cases based on first-come, first-served principles, while other courts will utilize cause lists as their guide.

With this strategy, it is guaranteed that case proceedings will be completed quickly and with little waiting. In order to speed up this procedure, parties are urged to appear early at the attendance desk. The Court Administrator and judges are able to move on without experiencing undue delays since cases are heard in line with the attendance list. (Verma, 2018) Parties can move directly to the next case in the case management system if they are ready. When the case is being continued online, the same procedure is applied in video conferencing mode. (K. H. Hassan 2011) The Pakistani judicial system urgently needs to implement this technique for attendance and case handling. Both the Lahore High Court and the Islamabad High Court should include or implement the system as they both use it for the system for court management.

### **5.4. System for Video Conferencing**

ICT is utilized in the judiciary to eliminate paper-based processes and provide quick, affordable, and dependable methods of delivering justice. The benefit of ICT, as acknowledged by national practices, is that it is incredibly fast and transparent. (Aulawi & Asmawi, 2020) The pace of the legal system can be improved by using ICT more frequently in video conferencing courtroom hearings. When parties and attorneys are unable to be in court on time due to scheduling conflicts, video conferencing can be a quick fix in the courts. It can also be used to examine trial inmates and witnesses. As a method of speeding up and enhancing security in the administration of justice, several courts have recently embraced video conferencing and virtual hearings. (Ahmad, 2012)

Video conferencing also saves money for clients, attorneys, and judges by cutting down on travel expenses. In situations involving rape victims, witnesses, and jawlines, this mechanism also serves as protection for the evidence (witnesses). (Purohit, 2017) The court, attorneys, parties, and (where applicable) witnesses may all see the same thing on their screens at once thanks to this technology. Additionally, the use of online (virtual) and offline (recorded) procedures by the court might be advantageous (Iqbal Kalanauri, 2021). The Supreme Court of Pakistan is working to implement online court processes utilizing ICT, and this is their major goal. The former Chief Justice of Pakistan, Asif Saeed Khosa, aimed to speed up the administration of justice and lessen the backlog of cases. In order to expeditiously administer justice on a trial basis, he has begun building online courts and model courts. As a result, the Supreme Court of Pakistan established a video link connection for its online court system, allowing cases to be heard through several registries.

### **5.5. Recording And Transcription of Cases**

The technique entails the use of electronic equipment to record and transcript court sessions, which serves to streamline the judicial process for the administration of justice and save time. In order to monitor (Local Commissioner) the recording of court proceedings, a transcriber takes notes and assumes the role of the judge or magistrate. The judge or judicial magistrate may refer to the transcript typed by the transcribers on a computer screen in order to stay focused and maintain track of the proceedings (Wan Mohd Saman Mrs & Haider, 2013). Advocates and litigants can also get free recordings on a CD or USB for reference purposes. Oral testimony of witnesses can also be recorded and retained to lessen the risk of loss because both oral and written evidence can be used and referred to in appeal proceedings in significant amounts (Zain et al., 2018). This system is not now used in Pakistan's judicial system. But as judicial reforms advance in the future, it is a workable strategy that may improve the way justice is delivered and make the legal system more organized and trustworthy.

### **5.6. Portal for Advocates and The Community**

It is a channel of communication between the public, attorneys, and courts. The administrative and judicial personnel can communicate with plaintiffs, advocates, and anyone involved in the case about case hearings and upcoming information using this module. (Aulawi & Asmawi, 2020) Both the Portal and SMS services are available for this system's adoption. In order to make it simple for plaintiffs and advocates to get the case schedule, this SMS service was devised. (Purohit, 2017) The Pakistani courts have already started using this technology to educate litigants and attorneys about their cases via their mobile phones, using SMS services, and mobile applications. Users of the app will be able to search for cases using case numbers, party names, and advocate names. They may also view the High Court's daily cause list. However, given that it is a very effective model for delivering justice throughout the world, this model should be implemented for district and tehsil courts and developed into a full online court.

## **6. Conclusion**

Technology is being used more often and is becoming more significant in conflict resolution. The development of the ethical infrastructure in this subject has to be updated as a result. It is crucial to assume responsibility for further creating ODR standards and best practises to promote its implementation in order to guarantee that ODR is carried out in accordance with the highest ethical standards. Given the disruption brought on by the growing use of AI in the legal industry and ODR platforms, this is especially pertinent. It's crucial to work together to choose the technology-assisted conflict resolution methods that are both effective and moral. To technology-based solutions, we cannot just apply the same standards of behaviour that are employed in face-to-face legal and ADR processes. Fortunately, institutions, groups, and experts in the legal and ADR disciplines are taking creative steps to embody these norms as they recognise their critical role in setting ethical standards for ODR.

In Pakistan, the number of cases that need to be resolved is increasing along with the population. This leads to issues with the types of conflicts, the locations of the parties, and the availability of witnesses. Through the online court system, the advent of ICT has ushered in a new era of accessible, prompt, and ongoing justice, providing quick and inexpensive justice for every person. In addition to increasing investor confidence and, by extension, the economy, the digital transformation of the legal system is essential to make justice universal, portable, and accessible. The incorporation of technology in the court system can assist reduce the backlog of cases and result in many other benefits, ultimately creating a more effective and efficient judicial system.

The necessity for the creation of an online court system is urgently evident given the backlog of cases now pending in Pakistan's judicial system. A system like this might have various advantages, such as allowing litigants to submit cases online, increasing access to justice for people who are weak or distant and cannot appear in court, and easing the burden of evidence placed on harmed parties. The sole viable online court option for now is video conferencing, however there are a number of implementation-related issues that need to be resolved. To guarantee the justice system is enhanced across the nation, a solid foundation for the online court system should be designed, appropriately executed, and communicated to judges, attorneys, and other judicial authorities. Justice may thus be delivered quickly and easily as a result.

The need for judicial reform is emphasized in order to establish new methods for ensuring access to justice. However, the transition towards online courts has been hindered by the lack of technological proficiency among legal practitioners, administrative staff, judges, and litigants. Despite this challenge, the adoption of online court procedures is a more cost-effective and time-saving alternative to traditional case registration, as online summons are provided at no cost.

In accordance with international standards and after implementing ICT modules, it is necessary to develop a System for Case Management, a Portal for Advocates and the Community, and a System for Video Conferencing. The Pakistani legislative and apex courts must move to enact rules and laws that would allow for

the use of online court systems that adhere to ICT standards, as well as make paperless adjudication a necessity of the hour. Starting training programs for judges, attorneys, and staff members is necessary in order to prepare them for working in online courts. ICT applications will be the main force behind the methodical growth of online courts. However, by coordinating the actions of Pakistan's Executive, Legislative, and Judicial frameworks, it is feasible to envision how the online court system would be used in the future. Online courts would be a wise choice to ensure that Pakistani residents have access to justice and that disputes are resolved quickly. Employing online courts is viewed as being both time and money efficient in modern society.

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