

Digital Justice: Technology and the Internet of Disputes.

Ethan Katsch and Orna Rabinovich-Einy (Oxford University Press, 2017, £19.99 paperback, xv + 242 pages) ISBN 9780190675677.

This is an accessible and timely book, written by the leading academics in the field of online dispute resolution (ODR), which examines from a socio-legal standpoint the developments in the area of information technology and dispute resolution. In the authors' words, the book "is about the role of law and the processes that are emerging to enable individuals to resolve disputes." The book covers the existing research in an engaging manner by sprinkling the academic analysis with interesting examples on how technology facilitates communications and change the dynamics of generating, settling and preventing disputes.

The book departs from the observation that modern communications have a knock on effect increasing the number of disputes for which traditional, face to face, dispute resolution processes are often unsuited. It also notes that there is a growing recognition that judicial adjudication is not the best process to resolve most disputes and that "today [alternative dispute resolution] ADR is our *primary* form of dispute resolution." This observation, famously triggered by Sander's proposal for a "multi-door court-house", argue that the choice of dispute resolution process should depend on the type of dispute –as Sander and Golberg put it: "fitting the forum to the fuss". This approach, which Menkel-Meadow labelled as "process pluralism", acknowledges the need to provide access to justice in different ways. But this view has also faced criticisms from Fiss to Genn, amongst others, who argue that while ADR may increase access to redress, they may deliver lower quality of justice. In *Digital Justice*, the authors argue how this critique clearly notes that there is a trade-off between the goals of efficiency (i.e. access) and fairness (i.e. justice), which is ever more present when technology is incorporated in the dispute resolution process.

The authors notice that while disputes are growing exponentially in a world where people are increasingly interconnected through technology, "what is missing are novel and more varied

avenues of dispute resolution and more efforts at dispute prevention.” The book highlights the paradox in the growth of “big data” with the relative little available information about the journey of disputes. The authors argue that this is partly due to the “amorphous nature of disputes” and partly due to the “lack of awareness and understanding concerning the relationship between technology and conflict.” The book helps to fill in this lacuna by improving our understanding of the potential that ODR has for preventing and settling disputes. In doing so, the authors discuss the importance of the procedural design of ODR and the need for the constant monitoring of these processes in order to maximise access to justice to the different segments of society.

Digital Justice is divided into two main parts. The first part examines the historical evolution of ODR and how it moved from online ADR to ODR schemes that offer innovative processes, which are gradually being imbedded into judicial procedures as well as in out-of-court processes, including not only in traditional ADR schemes but also as part of businesses’ internal complaints systems. This part also examines how ODR has evolved to increase access to justice and to prevent the appearance of future disputes. The second part of the book discusses the role that technology has in generating, resolving and preventing disputes in five areas: e-commerce, healthcare, social-media, employment and in courts. The authors conclude exploring the conditions that ODR schemes must meet to enhance access to justice by facilitating the resolution and the prevention of disputes that arise online and offline.

The book notes the growing institutional interest in promoting ODR from the EU ODR platform to the UNCITRAL ODR technical notes as well as many national initiatives, such as the UK Government decision to invest in ODR technology with the aim of making civil courts more accessible while benefitting from significant cost savings. Indeed, the UK Government has committed £732 million to modernise its courts and tribunals, which are expected to become more efficient and to operate “digital by default”. It is no surprise that this book has already become a point of reference by the senior judiciary. The president of Tribunals and the Master of the Roles have both quoted the book in recent speeches to explain how technology is being leveraged to increase access to justice.

The book observes that the “Fourth Party” in the dispute (a metaphor that represents the role of technology in the dispute resolution process) is shifting from being a vehicle to facilitate

the communications between the parties, to play a larger role in making decisions based on algorithmic analysis of the different components of disputes. The book identifies three major shifts in dispute resolution: a shift from face-to-face to virtual communications; a shift from human case management and decision making, to software-supported processes; and a shift from an emphasis on “confidentiality to an emphasis on collecting, using, and reusing data in order to prevent disputes.” The latest shift is perhaps the most important one. This is increasingly possible because technology allows us to follow and compare the path of disputes leading to the identification of patterns and behaviours, which data allows the adoption of measures to avoid future disputes.

This book is an excellent addition to the growing literature on ODR. Its main contribution, aside from updating the existing studies, is that it takes a unique and innovative approach in examining not only the potential of technology to resolve, but also to prevent, disputes; and it does so in a very engaging and thoughtful manner. Overall, this is a thought-provoking book that contributes significantly to the scholarly debate. Its lucid language and relatively concise length allows for the maintenance of a focused and robust argument on the importance and irreplaceable role of technology in the prevention and resolution of disputes. The book is therefore highly recommended to anyone interested in the field of modern dispute resolution.

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