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Equal Access to Information & Justice: The Huge Potential of Online Dispute Resolution Greatly Underexplored (I)

Mirèze Philippe · Monday, September 11th, 2017 · ArbitralWomen

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

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

Mourre’s speech was followed by inspiring words from **Mohamed Abdel Wahab** Founding Partner & Head of International Arbitration at **Zulficar & Partners Law Firm**, and one of the vice-presidents of the ICC International Court of Arbitration, **Diana Paraguacuto** partner at **NGO Jung & Partners**, who organised the very successful Global Pound Conference (‘GPC’) end of April in Paris, Colin Rule the former director of online dispute resolution for eBay and PayPal, and co-founder of Modria alongside **Chittu Nagarajan** (which recently merged with Tyler Technologies).

Abdel Wahab stated that “we no longer speak of technology and online dispute resolution (‘ODR’) as a luxury or a by-product. In ODR we think of technology as an integrated use of artificial intelligence through dispute resolution processes not only for resolution but for avoidance of disputes”. While Paraguacuto, pressed for a more progressive approach, quoting Mark Zuckerberg, she reminded the audience that “ideas do not come out fully formed, they only become clear as you work on them, you just need to get started. It is good to be idealistic but be prepared to be misunderstood”. She indicated that the GPC in Paris attempted to think differently about dispute resolution and that this could not be achieved without a chapter on ODR.

Rule referred to Silicon Valley where it is common to say that there are four stages to a new idea. “The first stage when you announce a new idea, people ignore you. The second stage, they make fun of you. The third stage, they argue with you, and they finally tell you at the fourth stage that they always knew you were right. “The good thing about ODR is that we see that we are now entering the fourth phase” he said “with all the progress we have made and all the ODR meetings, we are still at the beginning”.

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

Diversity criteria are meaningful to the ICC and seeing speakers from all profiles with a wide regional diversity, and an equal representation of male and female speakers, is a testament to this. Philippe asked women present in the room to stand up, showing that women made up more than half of the men in the room – demonstrating that female practitioners in dispute resolution and in online dispute resolution exist, contrary to the common perception. Philippe also paid tribute to ODR pioneers who considerably contributed to this field since the mid-1990s and invited those present to stand up when they hear their name. The most eminent pioneers were present. It is important to recognise the people who have made ODR possible, added Philippe. Although ODR is at its infancy, the room could sense that ODR has a history on which to build to continue progress.

The ODR 2016 conference examined whether ODR can help courts improve access to justice and this year’s topic focused on equal access to information and justice. While the topic in itself is nothing new, Philippe said that when individuals and firms do not benefit from access to justice, this equates to a denial of justice. Raising awareness and finding concrete tools which may help overcome unequal access to information and justice is everyone’s concern. “Today, almost everything is available online except justice, which continues to be denied to millions of people who cannot afford going to courts, or who are disabled or in remote places with no means to seek remedy” she added. After nearly 70 years of progress in technology and telecommunications, it is high time that both public and private justice offer a fair and simple access to justice around the globe. She concluded that we cannot stop progress, so why not join the process and make online justice happen.

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

The second keynote speaker, **Sanjana Hattotuwa**, special advisor at the [ICT4Peace Foundation](#),

joined via Skype from Sri Lanka. He spoke about the connection between business and human rights, highlighting the impact of technology on the way people access information and engage politically, stating that data is key to the transformation of dispute resolution – especially when looking at factors such as gender in political conflict resolution, which can play a huge role (drawn from Natasha Mellersh’s blog, full article on [GPC blog](#)).

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

Mirèze Philippe is a special counsel at the Secretariat of the ICC International Court of Arbitration. She is founding co-president of [ArbitralWomen](#), member of the Steering Committee of the [Equal Representation in Arbitration Pledge](#), member of the Board of Advisors of [Arbitrator Intelligence](#), member of the Advisory Board of [Association Arbitri](#), and fellow of the [National Center for Technology and Dispute Resolution](#).

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