

NAVIGATING THE NEW NORMAL: EXPLORING THE IMPACT OF ONLINE DISPUTE RESOLUTION ON ACCESS TO JUSTICE IN POST-COVID NIGERIA

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The COVID-19 pandemic erupted in early 2020, causing global disruption to the way and manner of doing things given the rapid spread of the virus. To curb transmission, governments implemented strict public health measures including lockdowns, travel restrictions, and bans on public gatherings. These steps, though critical from a public health perspective, had a severe impact on the normal functioning of societies.

The legal sector was no exception to this disruption, with courthouses closing or operating at reduced capacity, in-person hearings and trials suspended, and case backlogs expanding as the justice system ground to a halt. Confronted with the limitations of traditional in-court dispute resolution methods, innovative solutions were imperative. In response, Online Dispute Resolution (ODR) platforms emerged as a remote means of resolving legal conflicts. ODR leverages videoconferencing, online negotiation tools, and artificial intelligence to offer efficient, cost effective dispute resolution without the necessity for physical court appearances or travel. As the pandemic continued, ODR evolved into an indispensable tool for mediation, arbitration, and even remote courtroom proceedings.

This article therefore provides an insight into the potential of ODR in enhancing access to justice during and beyond the pandemic, thereby dismantling conventional barriers like geography, cost, and knowledge. Well-planned ODR has the potential to provide individuals and businesses previously excluded from dispute resolution with new, equitable conflict resolution options. Nevertheless, it is essential to design ODR systems thoughtfully to prevent the replication or exacerbation of existing inequalities. In conclusion, this article underscores the substantial potential of a well-constructed ODR to play a pivotal role in expanding access to justice worldwide in the aftermath of the pandemic's disruption of traditional legal practices. The research also highlights the importance of ensuring that ODR platforms are effective, fair, and impartial and that they do not perpetuate existing inequalities or create new barriers to access to justice. The research therefore concludes that ODR has the potential to play a significant role in providing access to justice in the post-COVID-19 pandemic era in Nigeria.

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I. INTRODUCTION

The outbreak of COVID-19 had and continues to have a profound impact on every aspect of our lives, including the way we resolve disputes.¹ With court closures, administrative delays, and other logistical constraints, the traditional dispute resolution methods have become increasingly difficult to access. In this context, the concept of Online Dispute Resolution (ODR) has gained significant traction as a way of resolving disputes quickly, efficiently, and affordably. This typically includes the use of digital technologies to facilitate the resolution of disputes between parties.² This can range from simple email exchanges and online communication platforms to more sophisticated systems such as virtual mediations and arbitrations. ODR has the potential to provide access to justice for individuals and businesses that may have previously been unable to resolve their disputes through traditional methods.³

While access to justice remains a fundamental human right that has been recognized by many international treaties, including the Universal Declaration of Human Rights (UDHR)⁴ and the International Covenant on Civil and Political Rights (ICCPR),⁵ it is however often limited by factors such as the cost and complexity of traditional dispute resolution methods, as well as barriers to access such as geographic, cultural, and linguistic differences.

It is against the foregoing background that this article explores the role that ODR can play in providing access to justice in the wake of COVID-19. It examines the advantages as well as the shortcomings of ODR in ensuring that ODR platforms are effective, fair, and impartial. By examining the potential of ODR to provide greater access to justice, this research will also contribute to ongoing debates about the future of dispute resolution in the digital age.

¹ Olawunmi Opeyemi Ogundipe & Omoniyi Bukola Akinola, *Covid-19 and the Challenges of Access to Justice in Nigeria*, 4 RUN L.J. 387, 392–94 (2021).

² Deepak Verma, Anshu Banwari & Neerja Pande, *Online Dispute Resolution*, in DIGIT. COMMC'N MGMT. 139, 139–40 (Beatriz Peña-Acuña ed., 2018).

³ Amy J. Schmitz, Lola A. Ojelabi & John Zeleznikow, *Researching Online Dispute Resolution to Expand Access to Justice*, 1 GIUSTIZIA CONSENSUALE 269, 269–70 (2022).

⁴ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 10 (Dec. 10, 1948).

⁵ G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 14(1) (Dec. 16, 1966).

II. CONCEPTUAL CLARIFICATION

A. *Online Dispute Resolution*

Online Dispute Resolution refers to the use of digital technologies to facilitate the resolution of disputes.⁶ This can range from simple email exchanges and online communication platforms to more sophisticated systems such as virtual mediations and arbitrations. ODR is designed to provide an alternative to traditional dispute resolution such as litigation, and Alternative Dispute Resolution (ADR) methods, such as arbitration, conciliation, and mediation that may be more time-consuming, expensive, and less accessible.⁷

ODR may be of different forms, but it is typically characterized by the use of digital technologies to communicate, exchange information, and make decisions. For example, ODR platforms may utilize video conferencing, virtual hearing rooms, and online document management systems to enable parties to resolve disputes without the need for face-to-face interactions. ODR platforms may also provide decision-making tools, such as online arbitrations or mediations, that allow parties to resolve disputes in a timely and efficient manner.

B. *Access to Justice*

Access to justice is an incidental right of the right to access court. The right to access court has been recognized by numerous international treaties and declarations, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The right of access to justice is essential for the protection of all human rights, as it enables individuals to seek a remedy for violations of their rights and to have their disputes heard by an impartial tribunal. According to the UDHR: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”⁸ Similarly, the ICCPR provides that: “All persons shall be equal before the courts and tribunals. . . . [E]veryone shall be entitled to

⁶ Verma et al., *supra* note 2, at 139.

⁷ See David McQuoid-Mason, *Could Traditional Dispute Resolution Mechanisms Be the Solution in Post-Colonial Developing Countries – Particularly in Africa?*, 11 OÑATI SOCIO-LEGAL SERIES 589, 599 (2021).

⁸ G.A. Res. 217 (III) A, *supra* note 4, art. 10.

a fair and public hearing by a competent, independent and impartial tribunal established by law.”⁹

In practical terms, access to justice refers to the ability of individuals to have their disputes heard and resolved in a timely and effective manner. This requires the availability of effective and efficient dispute resolution mechanisms, as well as the availability of legal representation and other forms of support. Access to justice is often limited by factors such as the cost and complexity of traditional dispute resolution methods, as well as barriers to access such as geographic, cultural, and linguistic differences.

III. ACCESS TO JUSTICE IN THE CONTEMPORARY CONTEXT

Despite the recognition of the right to access justice as a fundamental human right, it remains a significant challenge for many people in the contemporary world. In many countries, there are significant barriers to access to justice, including financial, geographical, and cultural barriers. The cost of legal services is often prohibitively expensive for many people, particularly for those who are marginalized or live in poverty.¹⁰ Additionally, many people live in rural areas where access to legal services is limited, making it difficult for them to seek redress for violations of their rights. Cultural barriers can also play a role in limiting access to justice, particularly for women, ethnic minorities, and members of the LGBTQ+ community.¹¹

In light of these challenges, there have been a number of efforts to reform access to justice in recent years. One of this initiative is ADR. ADR offers an alternative to traditional court-based proceedings and can sometimes be more cost effective and less time-consuming. It can also be more accessible to people who may face barriers to accessing the courts, such as those living in rural areas or those who cannot afford the cost of legal services.

Another important reform effort has been the development of legal aid programs.¹² Legal aid programs provide access to legal services for people who cannot afford them, ensuring that everyone has

⁹ G.A. Res. 2200A (XXI), *supra* note 5, art. 14.

¹⁰ Emery G. Lee III, *Law Without Lawyers: Access to Civil Justice and the Cost of Legal Services*, 69 U. MIAMI L. REV. 499, 503 (2015).

¹¹ Julinda Beqiraj & Lawrence McNamara, *International Access to Justice: Barriers and Solutions*, BINGHAM CTR. FOR THE RULE OF L. REP. 14–17 (2014).

¹² See ASHER FLYNN & JACQUELINE HODGSON, ACCESS TO JUSTICE AND LEGAL AID: COMPARATIVE PERSPECTIVES ON LEGAL NEED (2017), <https://media.bloomsburyprofessional.com/rep/files/9781509900848sample.pdf>.

access to justice regardless of their financial situation. The effectiveness of legal aid programs varies greatly between countries, although there have been concerns about the sustainability of such programs in many countries. Nonetheless, legal aid remains an important mechanism for ensuring access to justice for those who cannot afford it.

IV. ONLINE DISPUTE RESOLUTION AND ACCESS TO JUSTICE

A. *Where Do Paths Cross?*

Literally, ODR refers to any system of resolving disputes using virtual or online platforms. In a more formal manner, it refers to usage of technologies to facilitate possible settlement of disputes between parties. ODR may take the form of arbitration, mediation, negotiation, and even conciliation.

ODR presents several advantages in addressing the barriers of access to justice. First, ODR is typically less expensive than traditional dispute resolution methods, making it more accessible to individuals and businesses with limited financial resources.¹³ Second, ODR can be conducted from anywhere with an Internet connection, making it more accessible to individuals in remote or rural areas.¹⁴ Third, ODR can provide a quicker resolution of disputes, as there are no delays caused by court appearances or travel restrictions.¹⁵ Fourth, ODR provides individuals with greater control and flexibility over the dispute resolution process, as they can participate from the comfort of their own homes and in an informal and accessible manner.¹⁶

While ODR boasts several advantages, including cost effectiveness and accessibility, it is not without its concerns. One significant issue pertains to impartiality and independence, since ODR platforms are often operated by private companies which can raise questions about their neutrality. Additionally, the digital divide presents another challenge, as individuals lacking access to digital technologies, or the Internet may find themselves at a disadvantage when it comes to ODR participation.¹⁷

¹³ Katrina J. Kluss, *Mediation Mediums: The Benefits and Burdens of Online Dispute Resolution in Australia*, 4 AUSTL. DISP. RESOL. L. BULL. 110, 114–15 (2018).

¹⁴ CHARLOTTE AUSTIN, GOV'T CTR. FOR DISP. RESOL., AN INTRODUCTION TO ONLINE DISPUTE RESOLUTION (ODR) AND ITS BENEFITS AND DRAWBACKS 10 (2017), <https://www.mbie.govt.nz/assets/00ddeb604/online-dispute-resolution-report-2018.pdf>.

¹⁵ *Id.* at 11.

¹⁶ *Id.* at 12.

¹⁷ *Id.* at 18.

B. *The Impact of COVID-19 on Traditional Dispute Resolution Methods*

The COVID-19 pandemic has had a significant impact on the traditional dispute resolution methods, such as litigation and arbitration. The pandemic has forced many courts and tribunals to close their doors or limit in-person hearings, resulting in significant delays and backlogs in the resolution of disputes.¹⁸

In many jurisdictions, courts have had to shift to remote proceedings, such as video conferencing and telephone hearings.¹⁹ While these remote proceedings have allowed courts to continue to operate during the pandemic, they have also raised concerns about the fairness, impartiality, and accessibility of the justice system. For example, individuals without access to digital technologies or the Internet may be disadvantaged by remote proceedings.

Arbitration has also been impacted by the pandemic. In-person arbitration hearings have been postponed or cancelled, leading to delays in the resolution of disputes. Some arbitrators have shifted to remote proceedings, such as video conferencing and telephone hearings, but this has also raised concerns about the fairness, impartiality, and accessibility of the process.

In addition to the impacts on traditional dispute resolution methods, the COVID-19 pandemic has also highlighted the need for alternative dispute resolution methods. For example, ODR has gained popularity as a way to resolve disputes during the pandemic, as ODR can be conducted from anywhere with an Internet connection.

The impact of the COVID-19 pandemic on traditional dispute resolution methods has been significant and far-reaching. The pandemic has resulted in delays and backlogs in the resolution of disputes, raised concerns about the fairness, impartiality, and accessibility of the justice system, and highlighted the need for alternative dispute resolution methods, such as ODR.

¹⁸ IBIDOLAPO OLUFADÉ & ISMAIL MUFTAU, JACKSON, ETTI & EDU, *THE IMPACT OF COVID-19 ON COURT PROCEEDINGS IN NIGERIA* (Apr. 2020), <https://jee.africa/wp-content/uploads/2020/04/The-Impact-of-Covid-19-on-Court-Proceedings-in-Nigeria.pdf>.

¹⁹ Xingmei Zhang, *Remote Court Hearing as a Judicial Response to the COVID-19 Outbreak: An Impact Assessment and Suggestions for Improvement*, 11 J. GLOB. HEALTH 1, 1–2 (2021).

C. *Prevalence of Online Dispute Resolution During and Post COVID-19*

In recent years, ODR has gained significant traction as a more efficient, faster, and affordable dispute resolution mechanism. This realization became increasingly important in the wake of the COVID-19 pandemic. It has the potential to provide access to justice for individuals and businesses that may have previously been unable to resolve their disputes through traditional methods.²⁰ Even ADR, which is recognized as the viable alternative to litigation, was affected by the outbreak of COVID-19 as all ADR platforms could not operate physically. Thus, the only available resort is to explore a unique system of dispute resolution that could scale through the barrier created by COVID-19, which is ODR.²¹

Notably, the barricade in dispute resolution created by COVID-19 is a global problem which was not only experienced in Nigeria. Developed countries like the United States of America (U.S.), United Kingdom, Switzerland, and so on, realized the need to find an escape for the likely stagnation of dispute resolution systems in their respective countries, which is disadvantageous to the country as a whole, and the citizens generally. For instance, different e-commerce disputes were resolved using *MODRIA* (a U.S.-based ODR platform that was created in 2011 but was not popularly used until the rise of COVID-19).²² Commendably, *MODRIA* has recorded giant strides in the ODR industry as it has resolved over a million disputes around the world through automated negotiation and mediation.²³

E-commerce platforms are also exploring their technological space to devise ODR for resolution of commercial disputes that resulted from transactions on their platforms. For instance, eBay (the largest e-

²⁰ Pan Lindawaty Suherman Sewu, *The Prospect of Online Dispute Resolution (ODR) and Business Dispute Resolution in the Legal System in Indonesia*, 499 *ADVANCES SOC. SCI., EDUC. & HUMANS. RSCH.* 490 (2020).

²¹ Chinwe Egunbike-Umegbolu, *The Lagos Multi-Door Courthouse: Online Dispute Resolution in COVID-19 Era*, *FOR THE LOVE OF ADR: MASS AWARENESS ADVOCACY VIA PODCAST BLOG* (June 11, 2020), <https://blogs.brighton.ac.uk/chinwe/2020/06/11/lagos-multi-door-courthouse-online-dispute-resolution-lmdcodr/> [<https://perma.cc/E97W-KNER>].

²² Robert Ambrogi, *Modria, Innovator of Online Dispute Resolution, Is Acquired by Tyler Technologies*, *LAWNEXT* (June 12, 2017), <https://www.lawnext.com/2017/06/modria-innovator-online-dispute-resolution-acquired-tyler-technologies.html> [<https://perma.cc/XSX2-6ZN9>].

²³ TYLER TECHS., *MODRIA: ONLINE DISPUTE RESOLUTION*, <https://www.tylertech.com/Portals/0/OpenContent/Files/4080/Modria-Brochure.pdf>.

commerce marketplace) runs its nearly sixty million annual disputes on *SquareTrade* which is an online platform that resolves disputes that arise.²⁴ Although this ODR platform was not created during COVID-19, it became more popular during COVID-19 due to its relevance.

Amazon Pay is another platform established in 2007 to engage in online payment processing service.²⁵ In resolving disputes that may occasionally occur between the buyers and merchants, a “Buyer Dispute Program” was created.²⁶ Through the filing of a complaint, the platform is used to resolve disputes concerning unrivied payment or where the item received by the purchaser is materially different from what the merchant described.²⁷ Other e-commerce platforms that provide ODR services include: Etsy ODR system, Facebook Commerce Manager, Grubhub Customer Care, Airbnb, Nominet Dispute Resolution Services, Cybersettle, MyMediator, and so on.

Another relevant ODR platform that gained momentum during COVID-19 and beyond is Rechtwijzer which was established in 2007 in the Netherlands. The software platform has recorded huge success in resolving divorce issues and land-tenant issues, among others.²⁸

In Nigeria, there are now different multi-door courthouses that handle different ADR categories of actions. While the development of these courthouses did not occur after the outbreak of the pandemic, it is however not in doubt that the outbreak of COVID-19 led these courthouses to adopt ODR as part of their dispute resolution system. For instance, Edo state judiciary developed ODR as part of its justice in 2021 alongside the creation of Edo State Multi-Door Courthouse (ESMC).²⁹ Even the Lagos state Multi-Door Courthouse which is regarded as the pioneer courthouse in Nigeria has been argued, after the outbreak of COVID-19, as contemplating ODR systems through the provision of Article 12 of the Lagos State Multi-Door Court Practice Directions on Mediation which allows the courthouse to hold its

²⁴ Colin Rule, *Designing a Global Online Dispute Resolution System: Lessons Learned from eBay*, 13 U. ST. THOMAS L.J. 354, 354–55 (2017).

²⁵ BHAVYA BHANDARY, AMAZON PAY: BANKING ON NEW THINKING DIAGNOSIS WHITE PAPER 1–2 (2019).

²⁶ *Buyer Dispute Program*, AMAZON PAY, <https://pay.amazon.com/help/201751580> [<https://perma.cc/XU9R-5EQH>].

²⁷ *Id.*

²⁸ John Zeleznikow, *Using Artificial Intelligence to Provide Intelligent Dispute Resolution Support*, 30 GRP. DECISION & NEGOT., 789, 802 (2021).

²⁹ *Edo Judiciary Launches Multi-Door Court Website, ODR Platform*, NIGERIAN TRIB. (Oct. 8, 2021), <https://tribuneonlineng.com/edo-judiciary-launches-multi-door-court-website-odr-platform/> [<https://perma.cc/5KWV-CCV6>].

proceeding at “any other convenient location agreed by the mediator and the parties.”³⁰

Also, the Institute of Chartered Mediators and Conciliators (ICMC) has devised an ODR platform where disputes can be amicably settled without need for physical interaction.³¹ The ICMC/ODR was also a result of the experience of COVID-19 which handicapped all dispute resolution mechanisms in the country. The institute entertains filing of claims for a minimum payable amount of ₦3000 to process the filing and registration.³² ODR in Nigeria has not gained many patronages compared to developed countries like the U.S. and U.K.

D. *Adoption of ODR in Nigeria*

The use of ODR in Nigeria has been slow in comparison to other countries, particularly countries in the West. This is due to a variety of factors, including a lack of awareness of ODR, a lack of trust in the technology, and a lack of understanding of the benefits of ODR. There have however been some efforts in recent years to promote the adoption of ODR in Nigeria. One such effort has been the establishment of the Nigerian Online Dispute Resolution Centre (NODRC). The NODRC was set up in 2017 with the aim of promoting the use of ODR in Nigeria and raising awareness of the benefits of ODR. The NODRC provides information and guidance on ODR, as well as training and support for those looking to use ODR to resolve disputes.³³

Another initiative that has been set up to promote the adoption of ODR in Nigeria is the African Online Dispute Resolution Network (AODRN). AODRN is a network of individuals and organizations working to promote the use of ODR in Africa. The AODRN provides a platform for sharing information and best practices, as well as advocating for the wider adoption of ODR in Africa.³⁴

³⁰ Faruq Abbas, *Online Dispute Resolution (ODR) in Lagos State: A Welcome Development*, LINKEDIN (June 2, 2020), <https://www.linkedin.com/pulse/online-dispute-resolution-odr-lagos-state-welcome-faruq-abbas/> [<https://perma.cc/8Z4E-JCVY>].

³¹ See *ICMC ODR Platform/Centre*, ICM, <https://www.icmcng.org/odr-centre/> [<https://perma.cc/K9RX-VY58>].

³² *ICMC Registration and Payment*, ICM, <https://odr.icmcng.org/payment/> [<https://perma.cc/U8Q2-24WJ>].

³³ See generally *Nigerian Chambers of Commerce and Industry Dispute Resolution Centre*, <https://nccdr.org/> [<https://perma.cc/TW99-R3TR>].

³⁴ See generally *ODR Africa Network*, ODRA AFRICA, <https://odrafrica.com/> [<https://perma.cc/DPX9-YZ3W>].

V. LEGISLATION AND REGULATIONS

There are currently no specific laws or regulations in Nigeria that deal with ODR. However, it has been argued that the Nigerian Constitution impliedly recognizes the use of technology for arbitration, mediation, conciliation, and adjudication.³⁵ The argument is hinged on the community reading of Sections 18(2) and 19(d) of the Nigerian Constitution which respectively provide for promotion of science and technology, and settlement of international disputes through ADR.³⁶

It is also argued that while there is no express provision in the Arbitration and Conciliation Act,³⁷ Section 1 of the Act can be broadly interpreted as contemplating agreements written through technological devices like online printouts, e-mail, and other means of communication which are relevant to ODR.³⁸

There are also other provisions in the country's legal framework that could be relevant to ODR, such as the Electronic Transactions Bill which is yet to be signed into law. The bill provides a legal framework for the use of electronic transactions, including the use of ODR in Nigeria.³⁹

In spite of the above, the use of ODR in Nigeria is growing. This is due in part to the efforts of organizations such as the NODRC and the AODRN, as well as the recognition of the benefits of ODR, such as cost effectiveness, speed, and convenience. However, the use of ODR in Nigeria is not regulated by specific laws or regulations, which has led to a lack of trust in the technology and a slow adoption rate.⁴⁰

One of the major challenges to the adoption of ODR in Nigeria remains the lack of specific laws or regulations that deal with its usage. This, no doubt has led to a lack of trust in the technology, as many people are unsure of the legal standing of ODR in the country. The absence of regulations also makes it difficult to enforce agreements reached through ODR, which has been a hindrance to its widespread acceptance.

³⁵ Lukman A. Ayinla & Taiye Oniyide, *Juridical Perspective on the Regulation of Online Dispute Resolution in Nigeria*, 7 ISLAMIC U. MULTIDISCIPLINARY J. 71, 74 (2020), <https://www.iuiu.ac.ug/journaladmin/iumj/ArticleFiles/5754.pdf>.

³⁶ CONSTITUTION OF NIGERIA (1999), § 18(2), 19(d).

³⁷ Arbitration and Conciliation Act (2004) Cap. (A18) (Nigeria).

³⁸ Ayinla & Oniyide, *supra* note 35, at 74.

³⁹ Akinkunmi Akinwunmi, *Covid-19 and Electronic Transactions in Nigeria*, LINKEDIN (May 16, 2020), <https://www.linkedin.com/pulse/covid-19-electronic-transactions-nigeria-akinkunmi-akinwunmi/> [<https://perma.cc/9F8U-F6JE>].

⁴⁰ See Ayinla & Oniyide *supra* note 35, at 74.

VI. IMPACT OF COVID-19 ON THE NIGERIAN COURT SYSTEM

The COVID-19 pandemic has had a profound impact on the world, affecting virtually every aspect of life including the legal system. In Nigeria, the courts have not been left unscathed by the pandemic, with many court closures and delays recorded.

In March 2020, the Nigerian government declared a nationwide lockdown in response to the COVID-19 pandemic, which resulted in the closure of all courts in the country.⁴¹ This closure was necessary to prevent the spread of the virus among court employees and litigants. In addition, the Nigerian Bar Association called for the suspension of all court activities and urged lawyers to work from home.⁴²

The court closures and lockdown measures have resulted in significant delays in court proceedings. In many cases, trials have been postponed, and some courtrooms have been unable to sit due to the COVID-19 restrictions.⁴³ The delays have also caused a backlog of cases, with many litigants waiting months or even years for their cases to be heard.

The impact of the COVID-19 pandemic on the Nigerian court system has been far-reaching, affecting not only court proceedings but also the judiciary itself. The pandemic has disrupted the operations of the courts, leading to delays in the delivery of justice.⁴⁴ The backlog of cases and delays in court proceedings have put a strain on the judiciary, making it difficult for it to fulfill its constitutional obligation to deliver justice in a timely and efficient manner.⁴⁵

The Nigerian government and the legal community must work together to address these challenges and ensure the continued delivery of justice in the wake of the pandemic.

⁴¹ OLUFADE & MUFTAU, *supra* note 18.

⁴² Chi. Johnny Okongwu, Simon Ejokema Imoisi & Ezinwanne Anastasia Nwaobi, *The Impact of Covid-19 on the Legal Profession in Nigeria*, 14 NNAMDI AZIKIWE U. J. INT'L L. & JURIS. 63, 65 (2023).

⁴³ *Id.* at 69.

⁴⁴ Halimah Yahaya, *Coronavirus: Nigeria Extends Shutdown to Court*, PREMIUM TIMES (Apr. 6, 2020) <https://www.premiumtimesng.com/news/top-news/386322-coronavirus-nigeria-extends-shutdown-of-courts.html> [https://perma.cc/XUF8-UYYVT].

⁴⁵ *Id.*

VII. BENEFITS OF ONLINE DISPUTE RESOLUTION IN THE POST COVID-19 ERA

The COVID-19 pandemic affected all aspects of life, including the legal industry. With the closure of courts and tribunals, alternative forms of dispute resolution have become more prevalent, with ODR playing a significant role. In this Section, we will explore the advantages of ODR in the wake of COVID-19, focusing on increased affordability and accessibility, improved efficiency and speed of resolution, and increased control and flexibility for individuals.

A. *Increased Affordability and Accessibility*

ODR offers an affordable and accessible alternative to traditional litigation. Online proceedings typically have lower costs than traditional litigation, as they eliminate the need for court fees, travel expenses, and other associated costs. Furthermore, ODR platforms are accessible from anywhere with an Internet connection, allowing for remote participation and reducing the need for travel.

This increased affordability and accessibility is particularly important in the wake of the COVID-19 pandemic, as individuals and businesses face financial constraints and reduced mobility. ODR provides a cost effective and convenient alternative to traditional litigation, which is critical in these uncertain times.

B. *Improved Efficiency and Speed of Resolution*

ODR also offers improved efficiency and speed of resolution compared to traditional litigation. Online proceedings can be scheduled and completed in a shorter time frame, as they eliminate the need for manual processes and increase the use of technology. This speed is particularly important in the wake of the pandemic, as businesses and individuals face increasing pressure to resolve disputes quickly and efficiently.

Additionally, ODR platforms typically use technology to automate many of the administrative processes, reducing the need for manual intervention and increasing efficiency. This improved efficiency results in a faster resolution of disputes, which is critical in these times of uncertainty and financial constraints.

C. *Increased Control and Flexibility for Individuals*

ODR also provides increased control and flexibility for individuals. Online proceedings allow parties to participate from the comfort of their own homes or offices, reducing the need for travel and minimizing the risk of exposure to the virus. Furthermore, ODR platforms allow for real-time communication, providing increased control and flexibility for individuals.

VIII. CONCERNS ABOUT ODR IN THE WAKE OF COVID-19

In Nigeria, the pandemic has brought new challenges to the use of ODR, leading to concerns about its viability and reliability. This Section examines key concerns.

A. *Disadvantages for Individuals Without Access to Digital Technologies or the Internet in Nigeria*

One of the biggest concerns about ODR in the wake of COVID-19 in Nigeria is the limited access to digital technologies and the Internet.⁴⁶ With widespread lockdowns and travel restrictions, many people are unable to attend court in person to resolve their disputes. This has led to an increased demand for ODR as a remote alternative. However, many people in Nigeria do not have access to the Internet or have limited access to technology, which means that they are unable to use ODR services. This creates a disadvantage for these individuals and hinders their ability to access justice.

B. *Issues with Impartiality and Independence of ODR Platforms*

Another concern about ODR in Nigeria is the impartiality and independence of ODR platforms. Many ODR providers in Nigeria are inexperienced and may not have the necessary expertise to resolve disputes effectively. This can result in delays, incorrect decisions, and a lack of confidence in the system. Furthermore, many ODR providers are not regulated, which means that there is a lack of oversight and accountability. This raises concerns about the impartiality and

⁴⁶ Emmy Latifah, Anis H Bajrektarevic & Moch Najib Imanullah, *Digital Justice in Online Dispute Resolution: The Shifting from Traditional to the New Generation of Dispute Resolution*, 6 BRAWIJAYA L.J. 27, 27–29 (2019).

independence of ODR platforms, as decisions may not be free from bias or external influence.

C. *Concerns About the Independence, Security, and Confidentiality of ODR Processes in Nigeria*

The security and confidentiality of ODR processes are also a concern in Nigeria. With many ODR providers using online platforms to resolve disputes, there is a risk that sensitive information may be accessed by unauthorized parties. This can result in breaches of privacy and the potential for fraud. It is essential that ODR processes in Nigeria are secure and confidential to protect the interests of parties involved and to maintain the integrity of the dispute resolution process.

D. *Enforceability of ODR Decisions in Nigeria*

The enforceability of ODR decisions is another concern in Nigeria. In many cases, ODR decisions are not legally binding, which means that they may not be enforceable in a court of law. This can result in parties ignoring the decisions and pursuing their own remedies, which can lead to further disputes and confusion. To address this concern, it is important to ensure that ODR decisions are legally binding and enforceable in a court of law.

E. *Dearth of ODR Practitioners in Nigeria*

There is also a dearth of ODR practitioners in Nigeria. The lack of experienced and qualified practitioners in ODR can result in incorrect decisions, delays, and a lack of confidence in the system. This can hinder the growth and development of ODR in Nigeria and limit its potential as a means of resolving disputes.

F. *Lack of Awareness and Understanding of ODR*

Another significant concern about ODR in the wake of COVID-19 in Nigeria is the lack of awareness and understanding of the concept among the general public. Many people in Nigeria are unaware of the existence of ODR and how it can be used to resolve disputes. This lack of awareness and understanding can result in a low uptake of ODR services, which limits its potential as a means of resolving disputes. To address this concern, it is important to promote greater awareness and understanding of ODR through education and outreach initiatives.

G. *Technical Challenges and Inadequate Infrastructure*

Technical challenges and inadequate infrastructure are also a concern in Nigeria. Many ODR providers in Nigeria are unable to provide reliable and secure online platforms to resolve disputes. This can result in technical difficulties and data breaches, which can negatively impact the dispute resolution process. To address this concern, it is important to invest in the development of adequate infrastructure and technology to support ODR services in Nigeria.

H. *Limited Availability of ODR Services*

The limited availability of ODR services in Nigeria is another concern. With many ODR providers operating in urban areas, access to ODR services is limited for individuals in rural and remote areas. This can result in a lack of access to justice for these individuals, which exacerbates existing inequalities in the justice system. To address this concern, it is important to increase the availability of ODR services, including in rural and remote areas.

I. *The Cost of ODR Services*

Finally, the cost of ODR services is a concern in Nigeria. With many ODR providers charging high fees for their services, access to ODR services may be limited for individuals with limited financial resources. This can result in a lack of access to justice for these individuals and undermine the principle of equal access to justice. To address this concern, it is important to ensure that ODR services are affordable and accessible to all individuals, regardless of their financial resources.

The COVID-19 pandemic has created new concerns about ODR practice in Nigeria. To overcome these challenges and realize the full potential of ODR, it is important to address the lack of awareness and understanding, technical challenges and inadequate infrastructure, limited availability of ODR services, and the cost of ODR services. This will require collaboration between government, private sector, and civil society organizations, to promote the growth and development of ODR in Nigeria.

In other words, the COVID-19 pandemic has created new challenges for ODR in Nigeria, but it has also presented an opportunity to address some of the long-standing concerns about the viability and reliability of this approach to dispute resolution. By ensuring access to

digital technologies, impartial and independent ODR platforms, secure and confidential processes, enforceable decisions, and qualified ODR practitioners, it will be possible to overcome these challenges and realize the full potential of ODR in Nigeria. This will provide greater access to justice for all parties involved, reduce the burden on the courts, and enhance the efficiency and effectiveness of the dispute resolution process.

It is important to note that while these concerns are significant, they are not insurmountable. With the right policies and infrastructure in place, ODR in Nigeria can become a reliable and effective alternative to traditional dispute resolution methods. This will require collaboration between government, private sector, and civil society organizations to ensure that ODR services are accessible, impartial, secure, and enforceable.

In the wake of the COVID-19 pandemic, it is essential that Nigeria takes a proactive approach to addressing these concerns and promoting the growth and development of ODR. This will ensure that the benefits of this approach to dispute resolution are realized, and that it becomes an integral part of the justice system in Nigeria.

IX. RECOMMENDATIONS & CONCLUSION

To realize the full potential of ODR and ensure that it provides greater access to justice in the wake of COVID-19 in Nigeria, the following recommendations are proposed:

- Enactment of a specific law on ODR.
- Investment in technology and infrastructure to support ODR services in Nigeria.
- Creation of more awareness and understanding of ODR through education and outreach initiatives.
- Increased availability of ODR services, including in rural and remote areas.
- Ensuring that ODR services are affordable and accessible to all individuals, regardless of their financial resources.
- Adhering to high standards of impartiality, independence, security, and confidentiality in the provision of ODR services.
- Promotion of professional development of ODR practitioners in Nigeria.

ODR has the potential to provide greater access to justice in the wake of COVID-19 in Nigeria, but it is important to ensure that ODR is effective, fair, and impartial. By addressing the challenges and implementing these recommendations, it is submitted that ODR occupies a significant position in improving access to justice in Nigeria.