“[I]nstantaneous global communications have given us a window on the world through which can be seen both the wonder of it all and the things that make us wonder about it all.”¹ The editors of Online Dispute Resolution: Theory and Practice – A Treatise on Technology and Dispute Resolution appropriately open the introduction with a prophetic quote from an author writing at the start of the internet era. As the internet developed into a mechanism for facilitating all types of almost instantaneous transactions and communication, the need for a system with the capability of resolving unique online disputes became apparent. Traditional forms of legal dispute resolution did not adequately address the emerging dispute resolution needs stemming from e-commerce and m-commerce transactions.²

Simply, Online Dispute Resolution (ODR) is a means of dispute resolution that uses a third party, not involved in the dispute, to facilitate the resolution conversation along with the use of technology itself, which has been labeled as the fourth party. ODR can be used for online disputes such as eBay user problems (discussed more later) but it

---

² E-commerce refers to the buying and selling of products and services over the Internet. M-commerce refers to the buying and selling of products and services through the use of a mobile device, such as a mobile phone.
can also be used for marital dispute resolution, court disputes, and other conflicts. ODR developed as combination of alternative dispute resolution (ADR) and information and communication technology (ITC). The result is a constantly developing form of dispute resolution that uses technology as a tool to satisfactorily conclude a conflict.

This treatise is a collection of scholarly essays that address the past, present, and future of online dispute resolution. The first part of the book looks closely at ODR and its applications and relationships to conventional dispute resolution theory. The second part focuses on ODR in an international context. Each of the twenty-four chapters is written by different ODR scholars and provides a discussion and analysis of the authors’ expertise within ODR. The topics include a general history of ODR, automated human intelligence in ODR, the role of culture in ODR, e-mediation and e-negotiation, and ODR in various foreign countries.

In Chapter 3: Lessons from Online Dispute Resolution for Dispute Systems Design, authors Orna Rabinovich-Einy and Ethan Katsh explain the method of using an automatic program to facilitate solving online disputes. They argue that for the more complex disputes occurring in the information age, it is important to not only have a skilled dispute resolver as a third party, but also skilled technology program. In a process called “automated negotiation,” the third party, sometimes present in ODR, is substituted completely for dispute resolution software. That software has been carefully engineered to assist each party in articulating its own interests and then works to come to a mutually acceptable resolution. The authors exemplify the eBay ODR system as one that has an

3 Orna Rabinovich-Einy is an assistant professor at the university of Haifa in Israel. She specializes in alternative dispute resolution, online dispute resolution, and civil procedure.
4 Ethan Katsh serves as the director of the Center for Technology and Dispute Resolution. He is Professor Emeritus of Legal Studies at the University of Massachusetts.
extremely high rate of success. The eBay system facilitates resolution for over sixty million disputes annually and resolves over 80% of disputes satisfactorily without any human involvement. The system was developed through studying dispute patterns and then creating a mechanism with the capacity to deal with a high volume of repetitive types of conflict. It also includes a dispute prevention arm. The eBay system is successful at facilitating dispute resolution at a low cost by implementing this ODR method.

Rabinovich-Einy and Katsh assert that companies conducting business completely online have a head start in incorporating ODR tools into their business models. However, the authors note that ODR can also be a useful problem-solving tool for companies that have little or no online business involvement. So far, online-only companies have an edge in efficient large scale problem solving because they use ODR in a systematic way to track behaviors and circumstances that lead to a dispute instead of reacting only once a dispute has arisen. The certainty of disputes arising is built into the business model of these companies, which the authors praise as forward thinking.

In the Chapter 4: Artificial Intelligence and Online Dispute Resolution, authors Arno R. Lodder and John Zeleznikow present their three-step model for online resolution. They suggest their model to be viewed in the context of online disputes where the parties have many tools at their disposal to use in the order of their choice, or they can elect to be guided through the dispute resolution process through a program. The three-step model should be implemented if the parties wish to be guided through a dispute

5 Arno R. Lodder is a professor at VU University Amsterdam, where he specializes in internet governance and regulation in the department of Transnational Legal Studies.
6 John Zeleznikow specialized in decision support and dispute management and is the Associate Dean Research in the Faculty of Business and Law at Victoria University in Melbourne, Australia.
resolution process. The authors assert that this process is unique because it provides a means for tackling a dispute that is not simply an ADR model put online. The first step is for a negotiation support tool is to set forth the possible scenarios that will occur if the dispute is not resolved. The next step is to use argumentation or dialogue techniques to address the conflict. Finally, for the issues still left unresolved, the negotiation support tool will offer decision analysis techniques and compensation/trade-off strategies. This process is repeated until all issues are resolved. If there are outstanding issues, the parties can revert to traditional ADR methods including binding arbitration and traditional mediation. However, the authors note that by the time the parties have gone through the ODR facilitated process, expectations for originally desired outcomes have usually decreased making resolution more easily attainable.

This method seems to be a creative melding of a more traditional ADR process with the new techniques offered by emerging technologies in the ODR field. There is something unnerving about all human disputes being solved by algorithms so I find some comfort in a process that maintains an element of not just human involvement, but human resolution skills. No matter how effective, satisfaction-wise for the parties and cost-saving-wise for an online company, humans will still need to develop problem-solving skills for use in every day life. Not everything can be left up to the computers.

The most intriguing section of the chapter discusses the use of ODR in the context of the Israeli-Palestinian conflict. Zelenikow argues that ODR would be a relevant and successful form of resolution for the conflict by first comparing the themes present in family disputes and those issues prevalent in the Israeli-Palestinian conflict. He then maps out the factors important to the resolution of the Israeli-Palestinian conflict. He
includes security, recognition of Israel, right of return, dismantlement of settlements, and autonomy, among others. Each factor is rated for importance by both parties, thereby creating an Allocation summary of the results.

The results were derived from using an interest-based approach to dispute resolution. The program suggested that Israel recognize a Palestinian state and that East Jerusalem would be its capital. Israel would also have to leave settlements that that are not close to Israel’s boarders. In return, Palestine would have to accept the state of Israel and give up any claims to a right of return to Israel. Palestine would also have to discourage Iran from developing nuclear weapons and from making negative public statements about Israel.

While this system is not comprehensive in its advice, it does provide a straightforward and unemotional solution that cannot be criticized for bias. It also illustrates that a solution to the conflict involves massive compromise on both sides that cannot be avoided. I found this application of ODR to be especially poignant and it underscores the benefits of a fourth party where the parties themselves or the help of a third party cannot come to a satisfactory resolution.

The final sections of the treatise address the international advancements of ODR. I found the section on Asia particularly interesting. Zhao Yun, Timothy Sze, Tommy Li, and Chittu Nagarajan contribute to Online Dispute Resolution in Asia and focus on

---

7 Zhao Yun specializes in space law, dispute resolution, international economic law, and e-commerce law at the Faculty of Law, University of Hong Kong.
8 Timothy Sze is a professor at the Hong Kong University of Science Technology and has worked extensively in the ODR field.
9 Tommy Li’s expertise is IT and currently works as a management consultant.
10 Chittu Nagarajan is the Head of Community Courts for eBay and PayPal. He is also the Chief Mediator and Head of ORDWORLD.com.
China, Japan, and India. The authors note that Asia has seen great advancement in ICT applications and Asian governments as well as private companies are introducing forms of ODR to their online services. For instance Hong Kong, Korea, and Kuala Lumpur jointly operate the ADNDRC, which is one of the four domain name dispute resolution providers globally. In China, the government enacted the Internet Domain Name Regulations and created an online dispute resolution system. The China International Economic and Trade Arbitration Commission adopted the Online Arbitration Rules, which was noted as a prominent breakthrough for ODR in Asia. Also, Chinese courts are attempting to introduce the use of information technology to litigation. The authors comment that while ODR is in its infant stages in Japan, the path has been set for large-scale growth. India has experienced great advancements in e-commerce, partially because of eBay India. eBay India, like eBay in the United States, developed an online dispute resolution policy that demonstrates high success rates.

This treatise provides a comprehensive and informative look at ODR’s growth and application globally. The authors give a broad look at the many facets of ODR. One weakness is that the level of explanation and analysis for most of the articles is too advanced for the uninformed reader. Because ODR is a relatively new phenomenon and many are being introduced to the topic for the first time, the treatise would have been more accessible had the authors included a more clear and thorough and consistent description of ODR. I found that the terms and concepts were often difficult to grasp and there was a lack of consistency between the chapters in each authors’ explanations of certain material. However, the treatise proved to be a very interesting read and will
undoubtedly to be a helpful research tool for those interested in ADR, technology, and ODR.