

Transformation of Dispute Resolution in Africa

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Abstract

Online Dispute Resolution (ODR) is the new frontier in dispute resolution process. There has been an overwhelming positive expectation on the way ODR will work globally and Africa is likely to join the evolving dispute resolution concept.

In recent years, technology has taken over virtually all aspects of our lives. This is from online shopping, online banking, online education, to online games, the list goes on and on.

Online dispute resolution has been used in e-mediation and turned out a great success for e-commerce. The emergence of ODR and its successes are notable in eBay, which boasts of resolving over 35 million disputes using its ODR services. Africa as a continent is a goldmine of technological exploration. The success of M-Pesa in East Africa, which uses technology in mobile money transfer is a testament to the advantages and great advancements the continent has made in its use of the vast population of youngsters. With a recommendation, for African legal practitioners to join the global movement.

Keywords: Lagos Court of Arbitration, Mauritius International Arbitration Court, ODR in Africa, Commonwealth States, UNCITRAL Working Group on ODR.

1 Introduction – Common Law

The African continent has been referred to as a dynamic continent, a place of opportunities, innovation and thriving concepts, with the vast majority of its people having a shared heritage. To a large extent, the Commonwealth of Nations makes their commonality extraordinary. The Commonwealth countries on the African continent include Botswana, Cameroon, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Seychelles, Sierra Leone, South Africa, Swaziland, Tanganyika, Tanzania, Uganda, Zambia and Zimbabwe. The Commonwealth legal system was developed through decisions of courts by judges.¹ The Commonwealth requires its members to be functioning democracies with respect to human rights and the Rule of Law. Half of the Commonwealth countries in Africa have the Westminster system of parliamentary democracy, and most Commonwealth members use the common law,

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1 <http://en.wikipedia.org/wiki/Commonwealth_of_Nations>.

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modeled on English law.² The English Common law is the foundation of the Commonwealth legal framework, which has a parallel connection with other legal systems such as civil law, customary law and Shariah law.³

The field of alternative dispute resolution (ADR) in Africa is developing rapidly, and has caught on with litigation in resolving disputes, with the use of mediation in the resolution of domestic disputes. The use of arbitration continues to rise in commercial disputes, with centres in Cameroon, Congo, Egypt, Kigali, Mauritius, Tunis and Lagos. They have all shown the new dawn in dispute resolution and are viable centres, able to cater to the growing commercial needs of its people. The Organisation for the Harmonization of Business Law in Africa (OHADA), a system of business laws and institutions adopted by sixteen West and Central African States to establish a uniform legal framework that governs commerce and investment in the region, continues to grow. OHADA is both a judicial court and an arbitration institution responsible for supervising the administration of arbitration proceedings in OHADA member states. In matters concerning OHADA law, the Common Court of Justice and Arbitration (CCJA) takes precedence over member states' courts.⁴ However, there has been some interest on the continent, with the entry of online dispute resolution (ODR) in the dispute resolution process, especially in Nigeria, Egypt, Ghana and South Africa. ODR is the use of information and communication technology to help parties manage, transform and resolve their conflicts.⁵ Evidence of interest and growth of ODR, both for scholars and for practitioners globally, is encouraging and does show its remarkable potential, especially in Africa, where there are lots of small claim cases.

1.2 Possibilities of ODR Use on the Continent

ODR is a wide field, anchored in technology-assisted third party intervention efforts, aimed at conflict prevention, resolution, peace building or conflict management. In other applications, ODR may replace the third party neutral by applying computational general formulations to facilitate the resolution of conflicts directly between the disputants themselves.⁶ Both provisions of ODR are likely to be seen on the African continent because of its adaptability and huge human resources as well as willingness to experiment with ideas.

On the African continent, ADR practitioners have seen positive expansion in areas such as arbitration and mediation. With the use of arbitration for commercial matters, Nigeria, Ghana, Kenya, Mozambique, Madagascar, Mauritius, South Africa and Rwanda have continued to be preferred destinations on the continent, where arbitration matters are handled effectively and efficiently. On the other hand, mediation is used equally extensively, both formally and informally. Unlike

2 <http://en.wikipedia.org/wiki/Commonwealth_of_Nations>.

3 <www.commonwealthofnations.org>.

4 <www.internationalarbitrationlaw.com>.

5 C. Rule, 'What Is ODR?', Presentation made at the 2008 International Forum on Online Dispute Resolution, Victoria, BC, Canada, 18 December 2008.

6 D. Leigh & F. Fowlie, 'Online Dispute Resolution (ODR) Within Developing Nations: A Qualitative Evaluation of Transfer and Impact', *Laws*, 2014, pp. 3, 106-116.

ADR, ODR is confronted with modern challenges, which to a large extent are technological and infrastructural. These realities have made some scholars and practitioners speculate on the feasibility of ODR use in Africa. However, recent technological successes show that Africa is ready to embrace change, expansion and growth.

Mobile technologies allow countries, especially emerging economies, to leapfrog over existing technologies, and statistics show they are leaping quickly.⁷ In 2007, Kenya introduced the M-Pesa, a money system that allows Small-Value Electronic Payment and Store of Value System that is accessible from ordinary mobile phones.⁸ The microfinance mobile phone-based system became a huge success. The Kenyan mobile operator Safaricom launched the transfer platform for the microfinancing service. This was in collaboration with Vodafone UK, acting as a minority stakeholder. The concept of M-Pesa was to create a platform that allowed microfinance borrowers to easily receive, deposit and repay funds using the network of Safaricom airtime resellers. Also, M-Pesa allows for money transfer, whereby users with a national ID card or passport can easily transfer, as well as deposit and withdraw, money. M-Pesa customers are able to utilize the services of airtime resellers and retail outlets who act as banking agents. As a result of M-Pesa success, the scheme has since expanded to other parts of Africa, Eastern Europe and Asia, with India reporting significant benefits since its introduction. The success of M-Pesa in Africa, through the use of technology, confirms the assertion that ODR has massive potential to excel there. A payment system that is linked to the resolution of disputes online will be beneficial to M-Pesa, as demonstrated by the eBay system, which combines payment and the resolution of online disputes efficiently, all on one platform. There is a possibility to integrate payment with an ODR system on M-Pesa, as long as there is an awareness of its usefulness in the dispute resolution process. Ebay has pioneered the payment system and ODR, which illustrates an online platform with functionality worth emulating. The integration of M-Pesa and an ODR system will engender a culture of resolving disputes online by the private sector in an environment already reaping the rewards of e-commerce. ODR is a wide field, based predominantly in technology-assisted third-party interactions, usually for the purpose of dispute resolution, conflict management or peace building.⁹

M-Pesa is an example of a peer-to-peer payment system. Peer-to-peer banking is an online system that allows individual members to complete financial transactions with one another by using an auction-style process.¹⁰ The growth of the Internet has spawned a variety of networks, some of which have introduced their own units of payment for participants' transactions. As long as these units are used only in the closed online environment, their economic significance is

7 See M. Kapoor, J. Morduch & S. Ravi, 'From Microfinance to m-Finance', *Innovations: Technology, Governance, Globalization*, Vol. 2, Nos. 1-2, 2007, pp. 82-90.

8 I. Mas & D. Radcliffe, 'Mobile Payments Go Viral: M-PESA in Kenya', *Capco Institute's Journal of Finance Transformation*, No. 32, 2011, p. 169.

9 See E. Katsh & J. Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace*, Wiley Company, San Francisco, 2001.

10 See <http://en.wikipedia.org/wiki/Peer-to-peer_lending>.

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limited.¹¹ Virtual currencies will strive excellently with the addition of an ODR platform to its payment system.

A transformation of dispute resolution can be achieved with a well-placed case management system, which is a tool used to administer and keep track of a case that is functional. However, a case management system must be distinguished from ODR. In other words, an efficient case management can successfully lead to the use of an ODR system. However, a case management system cannot replace ODR; rather, it serves as a vehicle for the implementation of ODR. The continent has witnessed an increase in case management systems for cases, which has been efficient. Therefore, with the use of a case management system that is already part of the justice system in some States, the implementation of ODR will be easier and simpler for both practitioners and disputants.

ODR is obviously dependent on technology, which makes the Internet extremely important and computers essential. The growth rate of real GDP in Africa from 2011-2012 was 5% per year except for 2009, when the growth rate was lower than usual because of the global economic/financial crisis that swept the world in 2008.¹² With regard to Foreign Direct Investment, there have been fundamental changes during the period 2006-2009. While some countries, such as Nigeria and Angola, have benefited from an increase, others, including South Africa and Kenya, have suffered from a decrease in FDI. Angola had the highest FDI, with US\$13,101 million in 2009.¹³ Nigeria has had an impressive FDI in 2013-2014, as its economy became the strongest on the African continent, by far surpassing the South African economy.

Most African States being developing nations, education and Internet use will be high in some states and low in others. Statistical data show that Nigeria is ready to embark on the use of ODR in its dispute resolution process. Etisalat, the telecommunications company operating in Nigeria, currently has a draft proposal for the resolution of telecommunications disputes. Also on 8 January 2014, the Director General of the Nigerian Institute of Advanced Legal Studies launched an Online Pro Bono Law Clinic, the first of its kind in Nigeria and the first on the continent.

In South Africa, a dispute resolution mechanism specifically dedicated and tailored to the South African domain was introduced. The domain, known as 'ZADRR', was adopted on 22 November 2006¹⁴ to provide a dispute resolution process that can be administered online. The entire process took less than 55 days to complete.¹⁵ The South African Institute of Intellectual Property Law (SAIIP), established in 1954 and representing some 140 patent attorneys, patent agents and trademark practitioners in South Africa, applied recently to the Department of Communications to become an accredited ZADRR dispute resolu-

11 See <www.nationalbanken.dk/en/publications/Documents/2014/03/DN_MON1_2014_EN.pdf>.

12 See <www.africaneconomicoutlook.org/en/data-statistics/table-2-real-gdp-growth-rates-2001-2011/>.

13 See <www.africaneconomicoutlook.org/en/data-statistics/table-10-foreigndirect-investment-2003-2008-usd-million/>.

14 See <www.svw.co.za/articles/IP-SAIIP.html>.

15 See <www.bowman.co.za/ZADRR/Index.asp>.

tion provider and its application was approved. Prior to such accreditation, the only possible action that could have been taken against cybersquatters, as they are commonly referred to, of the dot ZA domain name was to institute proceedings for trademark infringement in South Africa.

2 E-Commerce and Digital Laws

E-commerce is usually used to refer to transactions made and concluded through electronic means, such as mobile phones and all other digital devices. E-commerce covers all online trading in products or services, with the use of technologies such as mobile commerce, electronic funds transfer, supply chain management, Internet marketing, online transaction processing, electronic data interchange, inventory management systems and automated data collection systems. E-commerce is carried out through technologies using the World Wide Web.¹⁶ There are two main kinds of e-commerce carried out universally. Direct e-commerce, relates to goods or services that can be purchased immediately. This includes software downloads, or mp3 files. Indirect e-commerce refers to goods or services that can be purchased online and delivered offline through a courier or post.¹⁷

E-commerce and the Internet provide a platform for the sale of goods and services. It allows consumers, in both the private and public sectors, to conduct business through electronic means on the national, regional and international levels. While most advanced African countries in technology, such as Nigeria, South Africa, Kenya and Ghana, have adequate e-commerce standards in place, less developed regions and states have not adequately recognized the importance of an e-commerce legal framework. In technology-ready States, like Nigeria, South Africa, Ghana and Kenya, e-documents and e-data are admissible as e-evidence, and are afforded equally the same evidentiary weight as standard-based documents.

Owing to the rise in e-commerce, a series of directives were adopted by the European Union to protect consumers. The regulation was the EU E-Commerce Directive, which came into effect on the premise of the E-Commerce Regulations 2002. The regulations ensure that electronic contracts are legally binding and that consumers are provided with certain information regarding the business and codes of conduct. A couple of African countries have followed suit in implementing regulations intended to safeguard their citizens undertaking e-commerce. In Nigeria, on 14 March 2014, The ADR Directive on Alternative Dispute Resolution of (2013/11/EU) and Regulation on Online Dispute Resolution (524/2013), which is in line with the UK law, was made available for all contractual disputes between consumers and business, making ADR mandatory for providers, who were required to meet certain quality standards. As the world awakens to the importance of ODR, particularly in the prevailing technological milieu, States will be seen legislating on its use. Recently, the UK Government announced plans to

16 See <www.en.m.wikipedia.org>.

17 L. Debenham, 'An Overview of the UK E-Commerce Regulations', *Online Shopping Rights*, March 2015.

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implement the 2015 EU legislation on the ADR Directive and ODR Regulation, both of which are aimed at promoting the use of ADR schemes in disputes involving consumer complaints throughout the EU. It is likely the African Union will soon bring legislation tailored to the needs of Africans.

The protection of Internet users, or ‘netizens’, is a fundamental requirement for the proliferation of e-commerce, and the progressive use of ODR. Most advanced African States have enacted specific laws such as IPR laws, and some, like Nigeria, which is currently struggling with its global image regarding Internet use, have enacted the Cybercrime Law. This law was enacted with the sole objective of dealing with online scams and persons seeking to use the Internet to circumvent the due process in Nigeria. The Cybercrime Law has been welcomed, and has been seen to be effective in the prosecution of wrongdoing. Businesses that are subjects of the E-commerce Regulations are required to share a certain amount of information with their consumers, lay down a very clear pricing policy and include advertising communications. This applies to businesses engaged in direct and indirect e-commerce.¹⁸

The United Nations Commission on International Trade Law agreed that a Working Group should be formed to undertake work in the field of ODR relating to cross-border electronic commerce transactions.¹⁹ Since the inception of the UNCITRAL Working Group III on ODR in 2010, the primary objective has been to seek ways to resolve high-volume, low-value disputes. This means, essentially, creating an ODR system that is compelling, sustainable and practical to both vendors and consumers. Africa will benefit immensely from the implementation of ODR Rules because of the high-volume and low-value e-commerce transactions that occur on the continent. The numbers are evident in Africa. A proposal made in Vienna, Austria, at the UNCITRAL Working Group III on ODR in October 2014 states the importance of ensuring that the Rules safeguard the confidence of both buyers and sellers in a predictable legal environment in the online market.²⁰ The proposal from China was the need for confidence in an ODR system with Rules that facilitate access by micro and SMEs businesses to international markets through e-commerce.²¹ Once this is guaranteed, Africa will embrace the resolution of e-commerce disputes online.

3 The Role of Lagos Arbitration Court

Africa is uniquely positioned to adopt ODR, because of the rise in e-commerce. Disputes are liable to arise in the use of e-commerce on the continent, but the existence of institutions that are better placed to adopt the ODR technology will make their resolution easier and faster. Institutions such as the Lagos Arbitration Court will serve as a focal point for the resolution of disputes, and possibly the use of an ODR platform to resolve small claims that emanate online. Nigeria is

18 Debenham, 2015.

19 See <www.daccess-dds-ny.un.org>.

20 See <www.uncitral.org>.

21 Rules on A/CN.9/WG.III/WP.133.

the best place to begin, and possibly have an ODR system in place on the continent, because of its economic strength, population and infrastructural expansion in key areas of its growth. These areas include telecommunications, banking and entertainment. Nigeria is the biggest economy in Africa, a position that makes her a key player in transformation, and a pacesetter in changing times. Lagos is Nigeria's largest city, with a formidable administrative presence, economic centre and chief port that is one of the largest in Sub-Saharan Africa. Above all, Lagos has the biggest, most liquid market in the region.²² Disputants are encouraged to ideally seek the services of the Lagos Court of Arbitration (LCA) as the preferred dispute resolution option at the beginning of their partnership, when businesses are negotiating contracts. It provides standard arbitration clauses that may be used by parties.²³

Transformation in a growing economy is inevitable. This means obstacles are bound to occur. Therefore, it is imperative that the obstacles be resolved for any transformation to have its full positive impact. The new frontier in dispute resolution, ODR, will be a huge success with the investment of resources in the institutions that will effect the change. The change here will be the use of ODR in E-commerce disputes. An institution such as the Lagos Court of Arbitration can gradually start the change through the need to have trained ODR practitioners, mediators, arbitrators, facilitators and neutrals well versed with the needs of the African people. The growth of commerce in Africa, with e-commerce expansion, has been phenomenal. As a result, ODR has great potential in Africa because of the continent's growth, which is due to its current human, financial and developmental positioning. It makes sense for an online dispute that occurred in an online space to be dealt with online too. The growth potential exists primarily in Nigeria's telecommunication sector, which is one of the biggest and fastest-growing telecommunication markets in Africa, attracting huge amounts of foreign investment.²⁴ The financial sector in Nigeria has also undergone a rapid rise, mainly due to e-banking, which reflects a transformation of Nigeria's banking, an area that is expanding at about twice the rate of gross domestic product growth of 7%. The rise of the banking sector has predominantly resulted from a push from the central bank of Nigeria (CBN) to promote a cashless transactions State, with the goal of reducing corruption.²⁵ Lastly, the entertainment sector has growth potential thanks to its capacity for innovation, which has captured the entire continent, and gone beyond to the Caribbean States. The Nollywood movies – which are said to be the second largest film industry in the world in terms of the number of films produced annually, ahead of the United States' Hollywood, and behind only India's Bollywood – as well as the extraordinary skills of the musi-

22 See <www.economist.com/news/leaders/21600685-nigerias-suddenly-supersized-economy-in-deed-wonder-so-are-its-still-huge>.

23 See <www.lagosarbitrationcourt.org>.

24 See <www.budde.com.au/Research/Nigeria-Key-Statistics-Telecom-Market-and-Regulatory-Insights.html?r=70>. Government sells national telco Nitel and M-Tel subsidiary at fourth attempt, for \$252.2 million; government proposes reduction in telcos taxes to boost sector investment.

25 C. Thompson, 'No Easy Money to Be Made From Nigerian Shoppers', *Ft.com*, May 2014.

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cians known for their originality in producing Afro music, have placed Nigeria in the forefront of African music and cinema.²⁶

A seat like the Lagos Court of Arbitration is well suited to addressing matters of infringement, injustice, damages and illegality. Justice systems in some African States are fully maximized and recognized, while in some other States they barely exist. This means the African States are marked by the full existence, average existence and marginal existence of the Rule of Law. Nevertheless, institutions such as the Lagos Court of Arbitration are bearers of justice and are better placed to initiate the change required, despite the notion in some quarters that public integrity of the justice systems in Africa is low. Inasmuch as ODR is a private one, the creation of an alternative justice system will see enhanced interest from CEO's in the telecommunications, banking and entertainment sectors, who most likely will be clamoring for the use of ODR because of the evidential value it will afford them, particularly in the digital sphere globally.

The fundamental reason for the need to embrace ODR by Africa, especially Nigeria, is the diverse nature of the continent and its peculiarity with dispute resolution. ODR is essential because disputes are numerous and resolvers are few. This is a continent that has embraced e-commerce in its entirety, with a significantly large number of small claims and low revenue. Disputes are usually global in nature, and ODR is best used to resolve matters that occur in an online environment. All growth areas earlier mentioned, such as telecommunications, banking and entertainment, have an online presence that is being reckoned internationally. An institution such as the LCA is at an advantage because of its status as a champion of change, and, as such, can gain insight from the American Arbitration Association strategy in dealing with disputes. However, such a strategy has to be in consonance with the unique nature of Africa, which should take into consideration an understanding in the bid to tailor Rules of Engagement, which will take into account the formal and informal requirements of Africans. Lagos Arbitration Court has an opportunity to pioneer the ODR in Africa.

4 The Role of the Mauritius International Arbitration Centre

The Mauritius International Arbitration Centre is conscious of the specific and complex nature of commercial disputes, both domestic and international. Mauritius has increased its profile on the arbitration scene.²⁷ There is a strong relationship between the London Court of International Arbitration (LCIA) and the Mauritius International Arbitration Centre (MIAC). As arbitration is often used for the resolution of commercial disputes, it is important that national and international communities at large are aware of the existence of the LCIA-MIAC arbitration centre, more so as the requirement for ADR expands.²⁸ The LCIA-MIAC is

26 See <http://en.wikipedia.org/wiki/Cinema_of_Nigeria>.

27 'Arbitration in Mauritius: Supreme Court Gives Confidence to Foreign Investors', 2014. Retrieved on 13 March 2015, from <www.nortonrosefulbright.com>.

28 K. Poonosamy, 'A Dynamic International Arbitration Centre in Mauritius', *Board of Investment-Mauritius*, 2013.

strategically positioned between Africa and Asia, and also lies between the trading centres of the world's fastest-growing economies.²⁹ The system that LCIA would like to implement goes far beyond online filing. It will not only include a basic case management system, but will also have functions that will be used in cases of facilitation, mediation and arbitration.

Most case management systems have provision for case intake and gathering primary documents. When cases are referred to an intervener, the information received in the intake and docketing process is available online for use in traditional face-to-face hearings. It is important to note that case management, which often includes online filing, is not ODR. However, case management can lead to the use of an online resolution of disputes, thereby having a case management and an ODR platform. As an intervention tool, the proposed system fulfils all the case intake and document handling features, with an audio- and video-meeting capability, plus the document-editing capability that will make the system functional for online proceedings. Here, the intervener can communicate with the parties asynchronously through the system, and synchronously via audio or video. A protocol agreement including an e-signature agreement and the online payment feature makes it possible to conduct cases using interveners anywhere in the world, with parties anywhere.

As parties demand full engagement in the dispute resolution, they also expect to see transparency in all the dealings. On 17 March 2015, eight States signed the Mauritius Convention on Transparency in Treaty-based Investor-State Arbitration.³⁰ On 5 June 2015, Mauritius became the first State party to the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration. The Convention is an instrument by which Parties to Investment treaties express their interest in applying the Rules on Transparency in Treaty-based Investor-State Arbitration of the United Nations Commission on International Trade Law (UNCITRAL) to their existing investment promotion and protection agreement to be concluded before 1 April 2014.³¹ The essence of the signing and ratification of the Convention is the determination on the part of the Government to ensure there is openness and accountability in the field of Investor-State Arbitration and to promote Mauritius as a regional and international arbitration hub. It also confirms the Government's commitment to introducing democratic participation, good governance and the Rule of Law in the region. The Under-Secretary-General stated, "The rules represent a fundamental change from the status quo of investment arbitrations often held behind closed doors and hidden from public view, even when the issues raised gather much attention from the public and the media." The transparency that Mauritius has adopted is an indication of where the country is heading. ODR, as a form of dispute resolution, fosters openness, and as ODR continues to gain momentum globally, more States will be inclined

29 See <www.lcia-miac.org>.

30 A. Ross, 'States Sign Mauritius Convention on Transparency', *Global Arbitration Review*, March 2015.

31 See <www.govmu.org/English/News/Pages/Investor-State-Arbitration---Mauritius-to-sign-Convention-on-Transparency.aspx>.

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towards being signatories to the UN Convention on Transparency. As the dispute resolution landscape gets transformed in Mauritius, ODR entry into the country will be a lot easier and faster, given the existence of solid institutions such as the Mauritius International Arbitration Centre.³² Mauritius has shown the rest of the African continent how to conduct matters in an open way, and I believe that in time most African States will follow suit. The importance of the UN Convention on Transparency is that it requires actions to be taken in the best interests of all parties in a dispute.

5 Conclusion – From Vision to Reality

The narrative on dispute resolution in Africa is transformation, slowly but surely. As the Lagos Court of Arbitration and the Mauritius International Arbitration Centre take on the responsibility of moving forward in the 21st century, they are mindful of the peculiarities of the continent and the need to act speedily, as time is of the essence.

There is an obvious difference between Africa's customary law, which can be properly understood in the context of *Ubuntu* and modern alternatives to judicial dispute resolution. In the *Ubuntu* doctrine, a dispute is not confined to settling individual disputes, but rather one that affects the whole community. Everybody is interconnected, including the disputants, irrespective of whether one is the victim or the wrongdoer.³³ The US-styled ADR is being used in many parts of Africa, and has been used for social transformation and as an instrument for sustainable development, particularly in the area of accountability. The popularity of arbitration, mediation and the use of neutrals was initially received with scepticism in the 1980s, because many feared it would undermine the customary law and, later, the conventional judicial process of litigation. With access to information, good training and a better understanding of ADR, legal practitioners in Africa began to see the positives, and embraced ADR wholeheartedly. This explains the increased interest in ADR in most commercial cities on the continent.

Private bodies and institutions are well placed to engineer the change, and, rightfully, they have begun the social movement. The Lagos Court of Arbitration and the Mauritius International Arbitration Centre will spearhead the transformation of the justice system in Africa, with the adoption of an ODR system in dispute resolution. Given their entrepreneurial locations, it is easier and simpler for the LCA and the MIAC, with properly trained arbitrators, mediators, neutrals and facilitators, to lead the continent in the resolution of online disputes. African governments have a part to play, and are encouraged by the private sector to promote ODR by adopting and promoting ODR pilot projects, especially in the use of e-governments.³⁴ Although there are challenges in Africa on the use of ODR in

32 See <www.govmu.org/English/News/Pages/Investor-State-Arbitration---Mauritius-to-sign-Convention-on-Transparency.aspx>.

33 See <www.unisa.ac.za/Default.asp?Cmd=ViewContent&ContentID=95264>.

34 M.S. Abdel Wahab, E. Katsh & D. Rainy, *Online Dispute Resolution for Africa*, 1st edn, Eleven International Publishing, the Netherlands, 2012.

the resolution of disputes, it is evident that with time, and the creation of awareness through access to information, ODR will be received and utilized to its maximum in all aspects of online activity. As the Lagos Court of Arbitration and the Mauritius International Arbitration Centre prepare for the latest developments in the sphere of dispute resolution, it will be advantageous to the institution that goes ahead to implement the ODR Directives and actually start using ODR in resolving disputes.