

Conflict Resolution in the Virtual World:

The Impact of COVID-19 on New Ways of Doing Business

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Abstract

The purpose of this paper is to supply an in-depth description of the impact of COVID-19 on ADR/ODR practitioners. The descriptive case study design was employed using descriptive statistical analysis of the data collected. Themes from increased cases to demand for ODR training and software surfaced. Research findings show both negative and positive effects of the pandemic on ODR businesses. Research limitations include the inability to adequately measure and test if and how the virtual world has offered new opportunities beyond the classic ADR and difficulty finding relevant quantitative research literature. Suggestions for future research are proposed. Practical implications include ensuring access to technology by clients and practitioners and technology training for professional development. Social implications include effective adaptation to changing technology, comfort with multitasking clients, and openness to technology rich ODR and learning environments. This study filled a gap in the literature where little information on the impact of COVID-19 on Conflict Resolution Practitioner's businesses exists.

Keywords: ADR, alternative dispute resolution, conflict resolution, COVID-19, internet, ODR, online dispute resolution, practitioners, technology, virtual platforms

Introduction

As internet technology continues to be globally widespread, discovering new ways of using online tools for dispute resolution is becoming more prevalent, as demonstrated in 2020 during the recent Corona COVID-19 pandemic outbreak. Most online dispute resolution (ODR) in the USA has focused on a wide range of alternative approaches, including civil, commercial, employment and family, and consumer disputes. The COVID-19 pandemic has shown how the need for quick, efficient, and virtual solutions and new techniques and online communication platforms are urgently needed. The pandemic brought to light virtually overnight that the dispute resolution industry will continue to grow online.

The reality is that technology is here to stay and will continue to transform how people work, access information, consume goods, and use services. Ultimately, we are experiencing a global mind shift and change in the conflict resolution field. Conflict resolution (CR) practitioners and scholars alike require rethinking old paradigms on traditional conflict resolution and adopting new collaborative, agile approaches to ODR. What was once imagined, such as virtual court hearings and mediation sessions across geographical borders, from resolving disputes from home online, is becoming a reality for ODR. The mainstreaming of online systems for a virtual panorama of personal, business, and professional applications is becoming the new norm and will continue to advance and improve in the post-COVID-19 pandemic period.

Literature Review

As COVID-19 pandemic ravages across the globe and scientists continuously work to understand this disease, millions of lives have been turned upside down, following the necessary social distancing measures, staying home, and wearing masks to help mitigate the spread. Service providers who typically meet their clients face-to-face are forced to change their services

mode. CR practitioners are no exception to this. Several articles revealed that conflict and violence have skyrocketed during this pandemic. A research team led by the University of California-Los Angeles (UCLA) found an increase in domestic violence reports in Los Angeles and Indianapolis (UCLA, 2020). Researchers analyzed police calls for service before and during the coronavirus pandemic between January 2 to April 18, 2020, in Los Angeles, and January 2 to April 21, 2020, in Indianapolis (UCLA, 2020).

Despite the ongoing pandemic, CR practitioners already utilizing alternative dispute resolution (ADR) mechanisms must continue to provide services. Those mediating, negotiating, and facilitating resolutions between parties are directly affected and forced to modify and quickly transition to technology for continuity of their services. The use of technology to resolve conflict is novel and impacts both recipients and CR practitioners alike. As studying ODR is a relatively new field, finding relevant quantitative research requires further in-depth examination and previewing the available literature.

History of the ODR Movement

The worldwide web development in the 1990s has led to the ODR movement over the last two decades. According to the literature, the new ADR movement's birth emerged in the 1970s and has provided an alternative to litigation and the traditional legal industry. ODR pioneer Colin Rule reminds us that "ODR is a direct outgrowth of ADR" and that "it operates in the legal landscape already created for ADR" (Rule 2019, para 2.) ODR has become a spin-off of the ADR movement, and its legalities in different domains, including civil, commercial, and family contexts, need consideration in distinct cultural contexts. We are currently seeing a more extensive range of processes from the ADR spectrum being conducted online, including online negotiation, online mediation, online neutral evaluation, and online arbitration (Zelevnikow,

2020). Today, a wide range of Information and Communication Technologies (ICTs) are used in mediation and the courts.

Although there is no generally accepted definition of ODR, Zeleznikow (2020) proposes that “we can think of it as using the internet to perform ADR” (p. 4). ODR can mean many things to different users across cultures; the common factor in all ODR descriptions lies in Ethan Katsch and Janet Rifikin’s (2001) dubbing this technology as “The Fourth Party.” Nevertheless, another factor affecting the classic relationship between the disputants and the third-party neutral include “The Fifth Party - the technological service provider” (Gómez, 2019, p.10).

ODR Users

ODR continues to mean different things for its users, including lawyers, academics, mediators, judges, ombudsmen, regulators, and technology providers (Case, 2016). Katie Gómez points out that “ICT facilitates user access to dispute resolution services and enables both disputants and the neutral party to use technological tools throughout a mediation process including electronic filing, email and video-conferencing; document management and information sharing software; private online conversations instead of in-person caucuses; electronic signatures, and so forth” (Gómez, 2019, p. 7).

The field of conflict resolution has been around for a while, with practitioners and scholars finding alternative ways to resolve society’s disputes. Mediation, negotiation, or facilitation often occurs in face-to-face interactions with customers. Schmitz (2018) argues that the problem is that face-to-face dispute resolution can be costly in terms of time and money. Furthermore, getting lawyers involved may inspire gamesmanship and adversarial antics to protect one’s reputation for staying “strong” and refusing to settle or admit wrongdoing (Schmitz, 2018). The solution is a well-designed ODR system that harnesses business and

consumer commonalities and creates a win-win for all stakeholders, as demonstrated in eCommerce disputes (Schmitz, 2018).

Globalization of ODR

The research of Abedi, Zeleznikow, and Brien (2019) demonstrates the following: that ODR has improved justice in the digital world, but currently, many countries lack legislation that adequately covers existing ODR systems; uniform laws are absent for ODR users. A precise definition of what security is for ODR for electronic commerce online disputes does not exist. So far, in the ODR field, there is little or no regulation, authority, and global monitoring standards. Abedi et al. suggest that more research is required on: “What is security in ODR, and how can it be measured?” and “How is ODR different from the relevant notions in traditional ADR?” (2019, p. 2). It is apparent that the ODR field needs to take steps to develop a set of regulatory standards for the ODR legal framework, which according to Abedi et al. (2019) should include three components - information security, privacy, and authentication of standards.” The International Council for Online Dispute Resolution (ICODR), an international non-profit organization incorporated in the United States, fulfills this need through its mandate to “drive the development, convergence, and adoption of open standards for the global effort to resolve disputes and conflicts using information and communications technology” (ICODR, 2019).

According to Alexander (2006), in terms of dispute resolution, technology has influenced ADR’s globalization in two ways. First, technology has facilitated the rapid transfer of information and know-how between national and transnational actors and accelerated the dispute resolution export explosion (Alexander, 2006). Second, technology has influenced the globalization of ADR through the emergence of different forms of ODR - from automated blind-bidding procedures and e-mediators without borders to online mediation platforms with a human

facilitator and online filing, and case management in court-connected programs. Its continuing development and integration into larger transactional and conflict management systems reflect its growing acceptance and utility (Alexander, 2006).

While this is common at a large-scale transactional level, we need to determine how individual conflict resolution practitioners integrated ODR into small-scale businesses during the pandemic. What software tools are being utilized? Lodder and Zeleznikow (2005), claim that the ideal ODR system should be a hybrid offering case management, best alternative to negotiated agreement (BATNA) advice, communication support, and tools that advise upon trade-offs. The development of such a hybrid ODR system, where all the systems can talk to each other, would be very significant, costly, time and resource-consuming (Zeleznikow, 2020). Zeleznikow (2020) affirms that such a system would be an essential starting point for expanding into a world where Artificial Intelligence (AI) is gainfully used. Since no current systems provide such hybrid support, what challenges are ODR practitioners experiencing? We agree with Sternlight (2020) that ODR can enhance access to justice, and it can be beneficial to disputants who lack legal representation. Critical to Sternlight's argument is that human disputes are intimately connected to human psychology. What is concerning is that we might trust computers more than humans to resolve most of our problems (Sternlight, 2020).

Purpose Statement and Research Question

The researchers chose a quantitative research approach to study how CR practitioners are working during the pandemic and identify the impacts the COVID-19 pandemic has had on CR practitioner's businesses. The research goal is to analyze how COVID-19 has forced or helped CR practitioners make unexpected adaptations during the pandemic. Such adaptations could include using for the first time or switching to ODR platforms and using new software and

technologies as part of their business portfolio now and into the future. In particular, the study is designed to measure and test if and how the virtual world has offered new opportunities beyond classic ADR.

The research will determine the influences of technological tools/software on ODR services, compare the effects between sexes (male and female) and ages (younger and older) practitioners. The research will investigate ADR practitioners' various challenges, including the impact that COVID-19 has on their businesses, their comfort level using technology, and the kind of technology they chose for their business. The problem is that most CR practitioners lack an ideal ODR software system and technological skills to provide ODR services successfully. We are interested in learning more about how the COVID-19 pandemic forces non-Ecommerce practitioners to transition to online dispute resolution. In particular, we would like to understand better the impact this transition has on their businesses. Most importantly, if practitioners can still create a win-win solution in ODR with their clients in the post-pandemic environment. Ultimately, the researchers hope to better understand challenges and opportunities to improve online human-human communication. The core research question to be explored is:

RQ1. How has the Covid19 pandemic impacted ADR businesses for conflict practitioners in the United States?

The null and alternative hypotheses for the research question (Q1) includes:

Null: The COVID 19 pandemic has not affected ADR businesses.

Alternative: ADR practitioners' businesses are affected by the pandemic.

The researchers predict that more female professionals in the ADR field are more likely to continue with ODR after the pandemic while older practitioners face more technological challenges. We aim to show that COVID-19 has had both positive and negative impacts on CR practitioners' businesses.

Methods & Design

Theories

This research requires a better understanding of the theoretical foundations for comprehending our digital age. Further study on *digital governance and technologies in a modern public administration* would be required. As many of the ODR platforms are being offered in a private and unregulated environment, applying privacy and security laws, providing standards or monitoring online platforms is a ripe area for more critical research and expanding on existing knowledge (Menkle-Meadow, 2001; Hollander-Blumhoff and Tyler, 2011; Ebner, 2008; Ebner and Zeleznikow, 2015). More work is needed to improve existing ODR systems and consistency of outcomes for ODR mechanisms.

Renowned ODR experts Ebner and Zeleznikow (2016) propose three e-governance models in the ODR field, including a no governance model, a self-governance model, and an internal governance model. Providing a blueprint for redesigning ODR systems or creating a digital ODR governance model is a critical area that academia, developers, or governmental policymakers and regulatory organizations have yet to address adequately. Finally, Ebner and Zeleznikow suggest that “discussions on governance must take into account the rapid pace of technological development, and of cultural changes that occur as humans interact with technology and develop social and legal institutions in response to technological change” (2016, p. 23)

Another theory to further consider more fully in this research is *post-positivism*. Methodologically, Mertens states that the postpositivist paradigm is characterized as using primarily quantitative methods that are decontextualized (Romm, 2015). The post-positivism world view encompasses determinism, reductionism, empirical observation and measurement,

and theory verification (Bastidas, 2020, slide 9). Determinism and reductionism consider human actions to be determined by certain external causes. The whole point of science is to talk about what variables can predict other variables; in other words, the “rules” of cause and effect (Stevens, 2012). This perspective informed this research study in understanding how conflict resolution practitioners' behavior has changed due to Covid-19. The results confirm that the pandemic has caused them to make changes and adapt to using technology to provide online dispute resolution services.

Post-positivism research scientifically strives to explore a phenomena and believes that the absolute truth is nowhere to be found (Wildemuth, 1993; Guba and Lincoln, 1994; Phillips and Burbules, 2000). Similarly, this research study explored the impact of COVID-19, a new disease that scientists are still learning how to mitigate it's spread. Therefore, with only a sample size of 53 participants and the first of its kind, absolute truth cannot be claimed. Like health experts and scientists, most conflict resolution practitioners are on a learning curve, trying to figure out the necessary modifications they must make and implications on their businesses and clients alike.

Transformative theory is also useful to consider for this research for grasping new ideas and concepts. Mertens (1999) indicates that she understands “transformative theory” as an umbrella term that encompasses paradigmatic perspectives that are meant to be emancipatory, participatory, and inclusive” (p. 4). She states that “the transformative paradigm is characterized as placing central importance on the lives and experiences of marginalized groups, such as women, ethnic/racial minorities, people with disabilities, and those who are poor” (Mertens, 1999, p.4). When embracing this paradigm, inquirers make efforts to “link the results of social inquiry to action, and [to] link the results of the inquiry to wider questions of social inequity and

social justice” (Mertens, 1999, p. 4). The transformative methodological belief system supports using a cyclical model in which community members are brought into the research process from the beginning and throughout the process in various roles (Mertens, 2010b, p. 472). Mertens recommends that the various roles adopted by initiating “researchers” and “community members” (who become part of the research) are to be negotiated between the parties. She underlines that part of the cycle of transformative research is that the various people (researchers/co-researchers/research participants) actively seek options for “social change” (Mertens, 2010b, p. 473). This transformative paradigm challenges ODR practitioners to ensure their technological resources are inclusive and accessible for marginalized individuals and researchers consider a collaborative approach of participants throughout the research process.

Sampling and Sampling Procedures

To gather quantitative data from our target participants, a survey was developed as a questionnaire consisting of a mix of yes/no/maybe questions, open-ended questions, multiple-choice questions, multiple and single-text check boxes, Likert-type items, and rating and scaling questions. The researchers used the online platform Survey Monkey as a popular way to create, distribute, and analyze the data collected. The survey was opened for almost one month from 9 October to 15 November with peak weeks from 23 to 30 October (the initial launch), and 10 to 15 November (the last call) after the researchers marketed and pushed the survey over various networks mentioned below. The survey is available at this link:

<https://www.surveymonkey.de/r/M8BLVSM>.

The survey was designed to be user friendly and take a maximum of 5-8 minutes for the participant to answer. The survey’s design was important such that the participants did not feel overwhelmed or unwilling to answer the survey questions. Participation involved responding to

17 questions about ODR. The survey participants were also required to fill out an Informed Consent Form stating their participation in this project as strictly voluntary and agree to participate in the survey as part of the researcher's Quantitative Research Methods I class at Nova Southeastern University.

Since the Coronavirus Pandemic also affected the extent of our research, the researchers were limited to sending off a questionnaire survey as a web link including a QR code via email to various organization's internal list serves, weblinks, on postings on social media including Twitter, LinkedIn and Facebook personal pages of the various organizations where the researchers are active members. The questionnaire survey was delivered to and targeted for conflict resolution practitioners working exclusively in the United States. The survey method included using both convenience and random sampling of specific practitioners that work in their own business or affiliated with the following organizations:

- Alternatives to Violence Project (AVP)
- American Bar Association, Dispute Resolution (ADR Practice Management, Business and Skills Development, Technology and Ombuds) Committees
- American Arbitration Association
- Association for Conflict Resolution
- Arcadia University (International Peace and Conflict Resolution Program)
- A roster of mediators at Mediate.com, Mediators Beyond Borders, and Detroit Mediators
- Good Shepherd Mediation (Philadelphia)
- Holland Mediation Services
- JAMS Mediation
- Nova Southeastern University Faculty and Alumni

- The Dispute Resolution Center
- The Peace Center
- Wayne Mediation Center/Wayne County Dispute Resolution Center
- Office of Collaboration and Dispute Resolution-Minnesota Department of Administration

Data Collection

The survey question's variables are designed in a specific order to be able to measure and collect specific data. The survey is divided into four distinct sections, which included: 1) demographic and the background characteristics of the respondents, including sex, age, current living residence, and distinctive ADR profession and working sectors; 2) how has the Coronavirus pandemic impacted the participant's ADR practices; 3) how are ADR practitioners using available online technology platforms and software; and 4) future steps to continue working online in the ADR field.

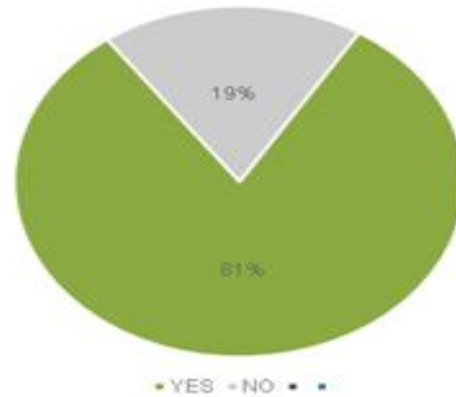
Variable 1 - CR Practitioner ODR User: Are you working in the field of conflict resolution and using ODR technologies?

Participants that partook in the research were asked the above question, and the results are as follows. Of the 53 participants who took the survey, 43 people who make up 81% of the respondents stated that they work in the conflict resolution field and are using ODR technologies. However, 10 of the 53 participants, which make up 19%, responded stated that they did not work in the conflict resolution field and did not use ODR technologies.

Table 1

Are you working in the field of conflict resolution and using ODR technologies?

ANSWER CHOICES	RESPONSES	
Yes	81.13%	43
No	18.87%	10
TOTAL		53



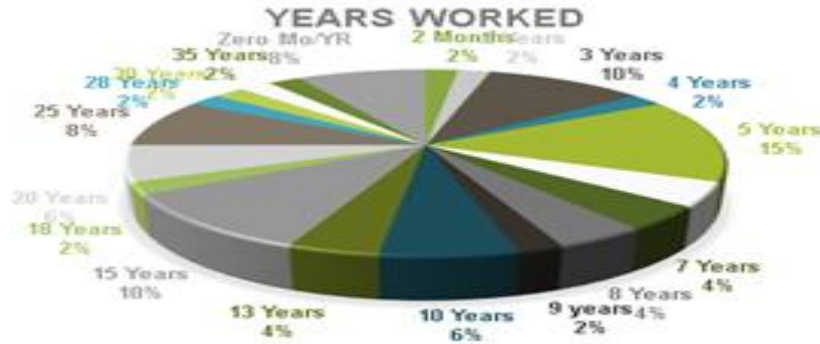
Out of the 53 people who took this research survey, 43 of them, which makes up an overwhelming 81%, are working in conflict resolution, and 10 of them, which make up 19% of them, do not work in the field.

Variable 2 - Time_CR Field: How long have you been working in the conflict resolution field?

The length of time anyone has worked in the conflict resolution field varies from 2 months to 35 years in the field. The average years of those who have worked in the field is 5 years with 15% response and 15 years with 10% response. 10% of the respondents stated that they have worked in the field for 3 years while 8% have worked for 25 years.

Table 2

How long have you been working in the conflict resolution field?



While this pandemic has transformed the way face-to-face interaction in solving disputes occurs among communities, changes will be more visible to different age groups working in this field. There is going to be more demand for those who are tech-savvy to engage in virtual communication (Hornle, 2003).

Variable 3 - US State: In what state or US territory do you live?

We asked what state did those partaking in this research live and practice, and the following states are where the 53 participants took the survey live. Many of the participants lived in Florida (13), Pennsylvania (11), Georgia (2), and the following states, Colorado (2), Indiana (1) Maine (2), Maryland (1), Minnesota (2), New Jersey (1), South Carolina (1), Virginia (4), California (4), Hawaii (1), Michigan (2), Texas (3), and Vermont (1).

Table 3

In what state or US territory do you live?



There was a peak in the following three states: Florida, Michigan and Pennsylvania due to the three researcher's connections within each state. The researchers' affiliation at Nova Southeastern University in Florida allowed for reaching a sample of participants living in Florida. Michigan and Minnesota also had a peak due to Genevieve's connections and reaching out to the conflict resolution community. In Pennsylvania, Mal was able to share the survey with several communities active in the conflict resolution field. Eileen reached out to the ACR network, ABA Dispute Resolution Committees, and Mediate.com experts to help us reach their practitioners take this survey.

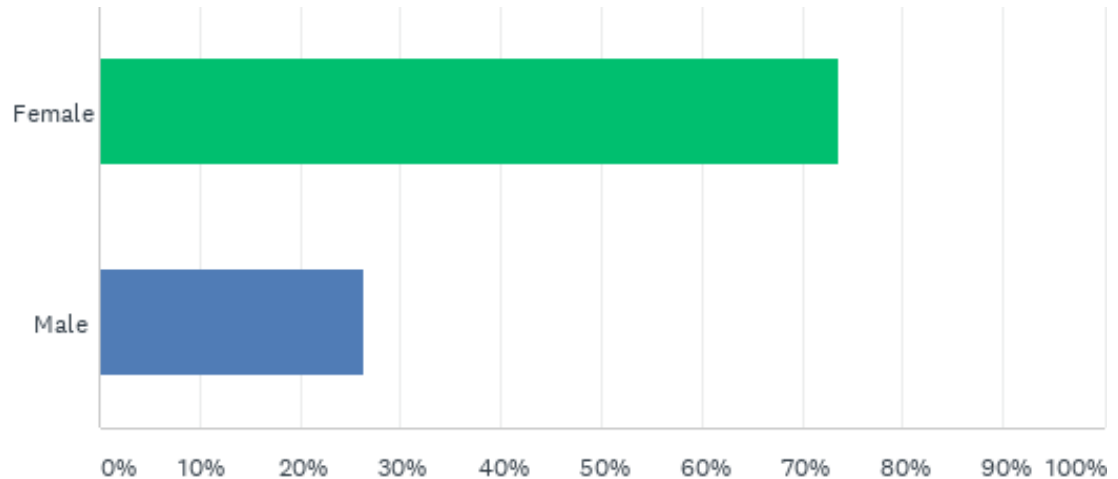
The challenge of time and events like the US election and other stress factors like the practitioners already being online 24/7 and dealing with experiencing online fatigue made it difficult for us to collect the sample size data that we were hoping to collect. The survey was limited to the United States only. In the future, if this study were to be revisited, it would be of great benefit to open it up to those that are practicing or working internationally in the conflict resolution world.

Variable 4 - Sex: What is your sex?

Women made up 73.58% of the participants, while on the other hand, men made up 26.42% of the people that took this research survey.

Table 4

What is your sex?



ANSWER CHOICES	RESPONSES	
Female	73.58%	39
Male	26.42%	14
TOTAL		53

When asked what sex they were, the largest number, 39 of the 53 surveyed were women making up 73.58%, and 14 out 53 participants making up 26.42 were men. There is limited research stating why there is a broader demographic of women working online during COVID-19 than men. This gender question is an area that needs to be researched more as the COVID-19 has changed how many working in the conflict resolution world have changed the way they are conducting business.

Variable 5 - Age: What is your age?

Table 5 below shows the ages of the participants that took the survey. The participants were asked a single text question to find out precisely the participant’s age. The breakdown of the ages of the participants of this research is as follows: 20-30 years old (2), 30-40 years old (7), 40-50 years old (23), 50-60 years old (10), 60-70 years old (3), 70+ years old (4).

Table 5

What is your age?



The results show that the youngest person working in the conflict resolution field during COVID-19 is 29 years old, and the oldest participant is 74 years old. Since ODR and ADR are relatively new, it is encouraging to see the different range in ages of those taking this research survey. An interesting observation and possibly alarming concern are the low number of young people working in the conflict resolution field compared to those working in their 40s, 50s, and mostly in their 60s. Does that mean that young people are not interested in this field, do not yet have the experience to have an ADR business, or are working in other fields such as tech and industry with higher salary earnings? These results could also mean that more research is needed to reach out to younger practitioners working in different fields who still may be engaged in conflict resolution.

Variable 6 - Specialization: In which area(s) do you specialize in?

Table 6 shows which areas the participants specialize including: Arbitrator, Conflict Coaching, Consultancy, Facilitator, Lawyer, Mediator, Negotiator, and Ombudsman.

Table 6

In which area(s) do you specialize in?

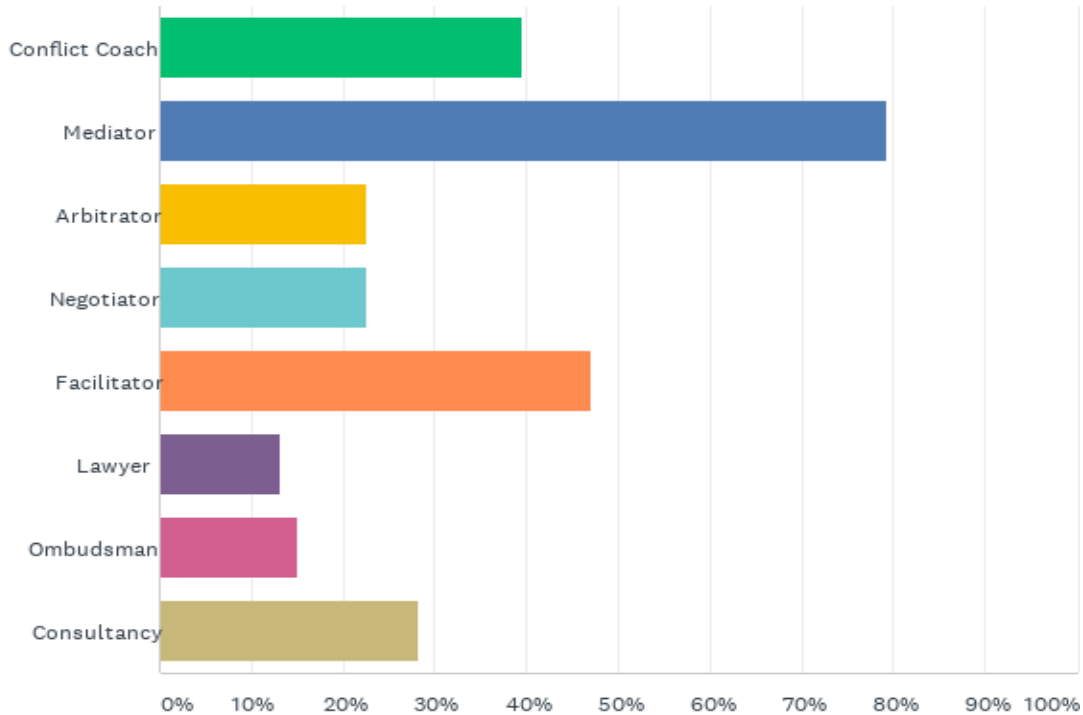


Table 6 shows that the larger group of people making up 30% are Mediators followed by Facilitators at 18%. Those who practice Conflict Coaching came third with 15%, and the rest followed with Consultancy at 10%. Negotiator and Arbitrator tied at 8%, and Ombudsman with 6%, coming in last place.

Variable 7 - Sector_Field: What sector/field do you work in the conflict resolution field?

Results revealed that 35.85% of participants practice ODR with organizations (N=19), followed by 28% who selected “Other” (N=15). There was a tie between the Family and Community sector at 11.32% (N=6 each), Commercial and civil were lowest at 7.55% (N=4) and 5.66% (N=3) respectively. Some of those who selected “other” mentioned they practiced in “all

of the above,” “most of the above,” “all but international.” As researchers, it is not clear what the effect would be on the current percentages had we given a “select all that apply” option. Some specific sectors listed by participants who selected “Other” include Community lawyering, Landlord Law, Commercial and Civil litigation, Business bankruptcy, Healthcare and Consumer matters, Construction, Military, Public Education, Civil and Organizations.

Table 7

What sector/field do you work in the conflict resolution field?

ANSWER CHOICES	RESPONSES	
Organizations/Workplace	35.85%	19
Civil	5.66%	3
Family	11.32%	6
Commercial	7.55%	4
International	0.00%	0
Community-level	11.32%	6
Other (please specify)	28.30%	15
TOTAL		53

These results show that over 60% of ODR/ADR practitioners work across multiple sectors. The implication is that most of the skills taught and learned in conflict resolution are transferable, unlimited, and applicable in all sectors. That must be good news as it not only offers opportunities for conflict resolution practitioners to expand their businesses and offers more services, but they can choose to focus on three or more specific sectors of their interests. This is necessary to avoid the temptation of spreading themselves out too thin, affecting the quality of

services. On the other hand, it also increases the challenges of obtaining and utilizing ODR software to meet diverse clients' needs. Although there is no ODR specific software yet, modern technology provides various platforms, and serving multiple clients will mean willingness to accommodate each client's preferred platform such as Zoom, Skype, and Google Hangouts.

Variable 8 - ODR benefits: What do you consider to be the benefits of online dispute resolution?

Table 8 below shows participants' responses to the benefits of ODR. At the top was the fact that it minimizes the need to travel at 86.79% (N=46), and convenience at 79.25% (N=42). Safety 64.15% (N=34), cost-saving 62.26% (33), ease of access and accessibility by diverse clients tied at 60.38% (N=32 each), comfort for clients and practitioners at 50.94% (N=27) was closely followed by efficiency and technical advantage at 47.17% (N=25), ability to co-mediate at 28.30% (N=15) and less emotional intensity at 22.64 (N=12) were rated the lowest (Table 8).

Table 8

What do you consider to be the benefits of online dispute resolution?

ANSWER CHOICES	RESPONSES	
Convenience	79.25%	42
Minimizes the need to travel	86.79%	46
Efficiency and technical advantage	47.17%	25
Comfort for clients and practitioners	50.94%	27
More accessible to a diverse range of clients	60.38%	32
Less emotional intensity	22.64%	12
Ability to co-mediate with another practitioner	28.30%	15
Safety - not in same physical space	64.15%	34
Ease of access	60.38%	32
Cost savings	62.26%	33
Other	7.55%	4
Total Respondents: 53		

It is not surprising that COVID-19, our independent variable, has impacted ODR practitioners. Despite the challenges resulting from the COVID-19 pandemic, ODR practitioners are also enjoying some benefits from saving on travel costs to reduce the risk of exposure or spreading the coronavirus during these unprecedented times while still serving their clients.

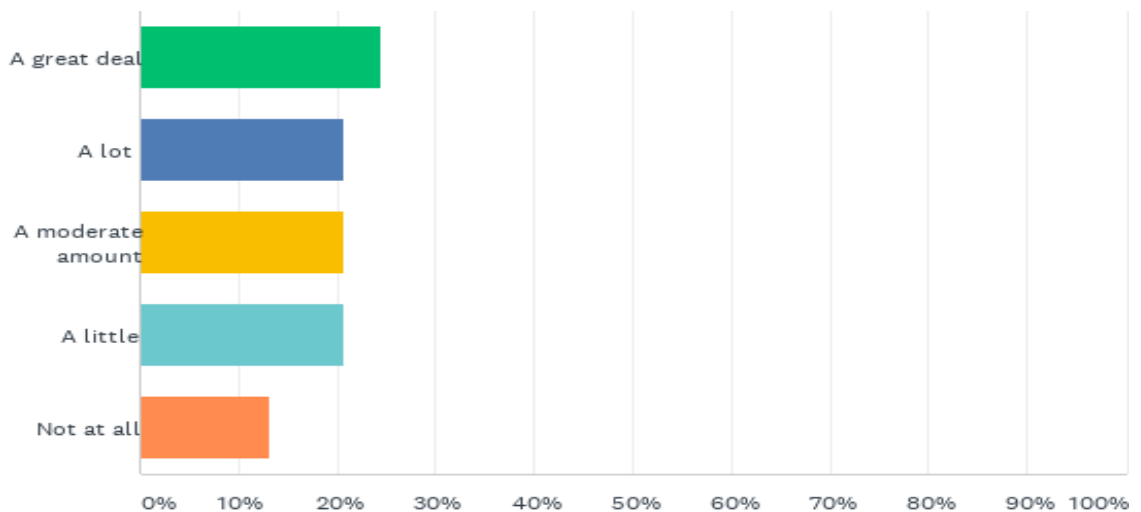
Variable 9 - COVID-19 Business Impacts: Has the COVID-19 pandemic affected your business? Variable 10: If so how?

When asked if COVID-19 has affected their business (Table 9), 24.53% (N=13) responded “a great deal,” respondents who answered, “a lot,” “a moderate amount,” and “a little tied” at 20.75% (N=11 in each category), and just 13.21% (N=7) said their businesses were “not at all” affected. Participants were also asked to specify how the pandemic impacted their

businesses. Common themes include “significant increases in cases,” “more referrals,” “Need to build ODR protocols,” “Training volunteers on technology,” “more work,” or “more business.” Some of the adverse effects listed include “less connection with clients,” “less interaction,” “increase in logistical challenges” especially for those who had to make an overnight switch to online, “dried up mediating opportunities from the court” for businesses that rely on court referrals among others.

Table 9

Has the COVID 19 pandemic affected your business?



These results from both variables 9 and 10 demonstrate that the pandemic has affected at least 85% of our participant’s businesses in some way, whether they were already practicing ODR or were forced to make a quick transition from offering face to face to online services. These responses confirm our prediction that COVID-19 has had both a positive and negative impact on ODR businesses.

Variable 11 – Technology CR Skillset: Has technology affected your skillset as a Conflict Resolution Practitioner?

When asked if technology has affected their skillset as CR practitioners, on a scale of zero to ten, where a score of 0 denotes no effect, 5 denotes moderate effect, and 10 denotes significant effect on their skillset. For the 53 participants, there was an average score of 44%, which may imply the participant scored about 7 between 5 as moderate to 10 as significant on the scaling question.

Table 11

Has technology affected your skillset as a Conflict Resolution Practitioner?

<p>Scale Range Question:</p> <p>0 = No</p> <p>5 = Moderate</p> <p>10 = Significant</p>
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Utilizing technology to fulfill clients' needs or any other services requires a certain level of competence to effectively use technological tools. Our participants' ages range from 29 to 74, which means the age difference contributes to comfort level when it comes to using technology. The younger practitioners are inclined to be more tech-savvy in comparison to the older ones. Additionally, ODR practitioners now have to deal with a multitude of clients whose conflict might have been exacerbated by the coronavirus, forcing them (Practitioners) to figure out many things from how to best support and equip their clients with necessary tools from a distance, to re-establishing trust with clients as needed.

Scholars also have written about trust inherent in an online nonvisual context such as email and a visual context using video-based mediation or negotiation and avatars (Exon & Lee, n.d).

Learning how to create private spaces for each client is also essential. This includes how to “segment the online platform into spaces, such that Space A is only accessible to one party and the mediator, Space B is only accessible to the other party and the mediator and Space C is accessible to both parties and the mediator” (Hornle, 2003, p.29). A majority of them are definitely on a learning curve, hence improving or learning new skill sets.

Variable 12 – ODR Platform: Which of the following devices do you most prefer to use to connect to the internet?

When asked which of the following devices do you most prefer to use to connect to the internet, an overwhelming 84.91% of the participants preferred laptop computer use. This was followed by only 39.62% of participants who stated they preferred to use a smartphone, while 37.74% used a desktop computer, and finally, only 26.42% of participants used a tablet. A participant further commented that they use a “Smartphone for personal use and laptop for professional use” while another participant pointed out for work, “the most important device is my laptop.”

Table 12

Which of the following devices do you most prefer to use to connect to the internet?

ANSWER CHOICES	RESPONSES	
Computer tablet	26.42%	14
Laptop computer	84.91%	45
Desktop computer	37.74%	20
Personal digital assistant (PDA)	0.00%	0
Enterprise digital assistant (EDA)	0.00%	0
Smartphone	39.62%	21
Please specify the most important one.	30.19%	16
Total Respondents: 53		

It is clear that many people today rely on technology and multiple device ownership is likely for both work and personal use. As there is a range of multiple technological devices on the market, accessibility, and comfort of a laptop could play a key role in why ADR practitioners stated they preferred to work online via laptop primarily for business use. A laptop accommodates all functions for working, such as video conferencing and phoning, spreadsheets and writing, social media, checking emails, and long battery life for extended use. A smartphone will likely grow in popularity in time as it combines the use of a personal mobile phone with other advanced features such as a camera phone and third-party applications. Smartphones enable the users to communicate “on the go” over a Wi-Fi connection or their phone provider. A desktop is a good option for a stationary computer or home office, while a tablet is portable and convenient for touch screens and communication applications. Future developments in technology will continue to provide new ways and transform how ADR practitioners do business in the future.

Variable 13 – ODR Platform: If you conduct online dispute resolution, which video conferencing platform do you prefer?

The survey results point out that Zoom is the most favorite video conferencing platform by 88.68% of 47 participants. The second most favorite chosen by 6.98% or 9 participants was Microsoft teams. Skype and free conference call tied for the third-most used platform by 7.55% by 4 participants, followed by GoToMeetings for 5.66% by 3 participants. The fourth most preferred platforms tied for google hangouts or WhatsApp by 3.77% for participants. Finally, the last ranked platform that also tied for fifth place was facetime or 1.89% by 1 participant while another participant chose designated ODR software by 1.89%.

Table 13

If you conduct online dispute resolution, which video conferencing platform do you prefer?

ANSWER CHOICES	RESPONSES	
Zoom	88.68%	47
Skype	7.55%	4
Microsoft teams	16.98%	9
Whatsapp	3.77%	2
Google Hangouts	3.77%	2
Facetime	1.89%	1
Webex	5.66%	3
Facebook messenger	0.00%	0
Wechat	0.00%	0
Designated ODR software	1.89%	1
Regular Telephone	0.00%	0
Gotomeetings	5.66%	3
Adobe	0.00%	0
Free conference call	7.55%	4
Other (please specify)	0.00%	0
Total Respondents: 53		

The use of zoom has grown in immense popularity as one of the top video conferencing services during the Corona pandemic. Despite the initial privacy problems of zoom-bombing, Zoom has

become a primary tool for many, including ADR practitioners who have come to rely on doing online ADR work with their customers. According to blogger Victoria Turk (2020), “everyone was suddenly using Zoom,” and “in April, Zoom peaked at over 300 million daily meeting participants – up from ten million in December 2019” (para 8). Other video conferencing platforms such as Skype, GoToMeeting, and Google Meet scored low compared to the Zoom Boom surge during the Corona pandemic. It is clear that online communication is on the rise, and the reliance on a digital working environment which provides elements of a professional workspace is growing in importance. It seems likely that ADR practitioners will continue to do business through the Zoom platform for now. The “new” or a better ODR platform of the future remains to be seen.

Variable 14 – Continuation Online Services: Will you continue to offer your services through an online platform?

The question of determining if practitioners will continue to use online services, 62.26% or 33 participants answered: “Yes, definitely plan to continue online” while 28.30% or 15 participants responded, “Possibly, both online and in-person” and finally 13.21%, which included 7 participants, stated that they are “Not sure at this time.” One participant filled in the textbox that “I was doing online prior to COVID so I will continue” while another participant commented that “depends on my next steps.”

Table 14

Will you continue to offer your services through an online platform?

ANSWER CHOICES	RESPONSES	
Yes, definitely plan to continue online	62.26%	33
No, plan to return to in-person only	0.00%	0
Possibly, both online and in-person	28.30%	15
Not sure at this time	13.21%	7
Other (plan to retire, close my business)	3.77%	2
Total Respondents: 53		

A key challenge is to try to determine and envision the post-pandemic online work environment. The online world has completely transformed how we do business, and technology is changing the way ADR practitioners interact with their clientele. With the COVID-19 pandemic, many ADR practitioners shifted to online platforms and learned how to operate their business in an innovative and non-traditional way. It is clear that technology is changing how ADR practitioners work, and in turn, conflicts are being resolved in new ways. ODR is now being practiced outside the traditional court-and-board rooms, across borders states, and in the comfort of both the ADR practitioner's and customer's private homes. ADR practitioners will likely continue to work online and possibly combine both in-person and online methods into the near future. Computers and technology are becoming indispensable to the way ADR practitioners operate now and indefinitely. Rule reminds us too that "we still lack definitive data on the durability of outcomes achieved through ODR and the rates of breakdown in outcomes via ODR versus the rates of breakdown in face-to-face resolutions (Rule, 2020, p. 14).

Variable 15 – Additional Skills Needed: Given the demand for virtual meetings, what additional skills do you feel you need to be more successful?

This question provided multiple-choice options to the participants to enquire what skills are needed now to improve their overall ODR experience. Almost 75.47% or 40 participants answered that they need “more strategies enhancing the online experience for participants,” while 58.49% or 31 participants answered that they need “tips on how to minimize online user fatigue.” Additionally, 47.17% or 25 participants responded that “more skills in communicating and managing emotions effectively online” are needed while 45.28% or 24 participants wished for “further training and practice with the online platform.” Another 39.62% or 21 participants, pointed out they need “help with making my conflict resolution process more online-friendly.”

Table 15

Given the demand for virtual meetings, what additional skills do you feel you need to be more successful?

ANSWER CHOICES	RESPONSES	
More skills in communicating and managing emotions effectively online	47.17%	25
Further training and practice with the online platform	45.28%	24
More strategies on how to enhance the online experience for participants	75.47%	40
Help with making my conflict resolution process more online-friendly	39.62%	21
Tips on how to minimize "online" user fatigue	58.49%	31
Total Respondents: 53		

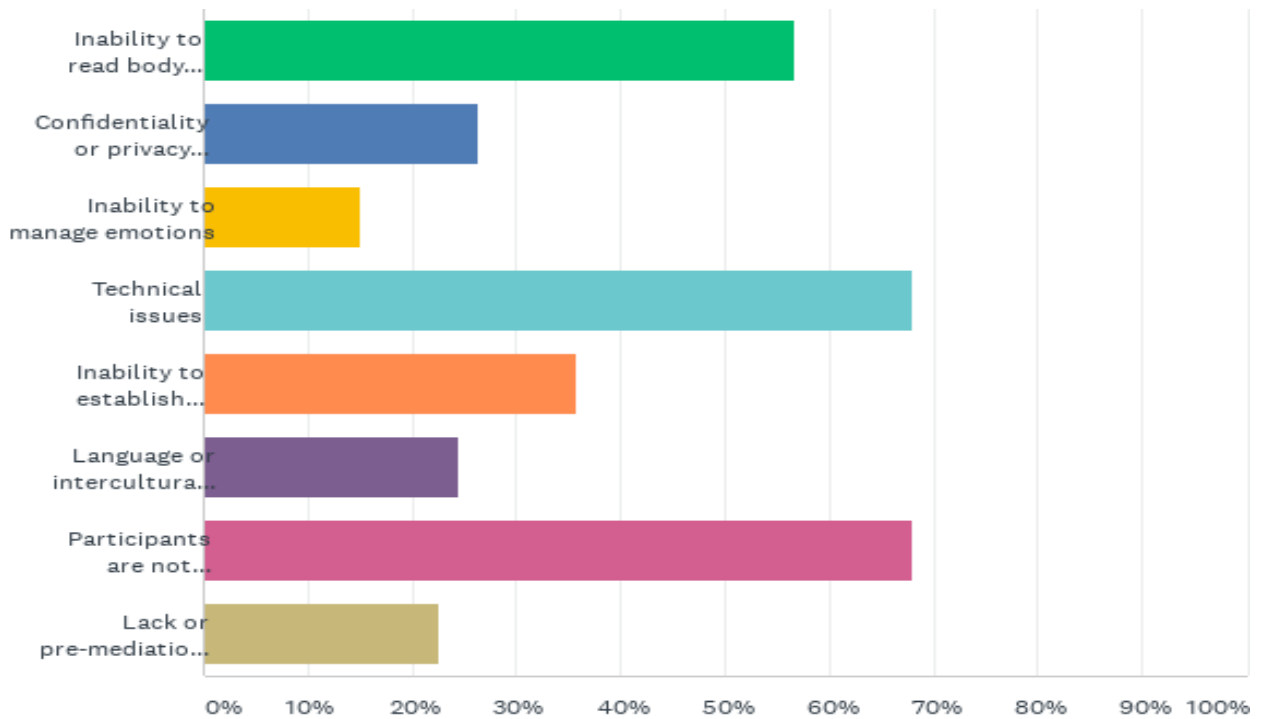
The COVID-19 pandemic offered the opportunity to understand better what skills ADR practitioners need to continue to work online effectively. A key factor is considering how the disputants might need additional assistance in understanding the virtual setting's ODR process. Using technology is possibly a new frontier for the ADR practitioner, but many times, the end-user is not well-versed in the various software or technologies, either suggesting a learning curve for both users. Providing better training and providing tips for ADR practitioners and their clients to maximize their ODR experience without online fatigue and experiencing a higher comfort level are essential factors to consider more carefully.

Variable 16 - Obstacles: What gets in the way of a successful online solution, i.e., reaching resolution?

The most popular response to this question revolved around “technical issues,” where 67.92% or 36 participants suggested they “are not tech-savvy or uncomfortable with an online platform.” The next concern by 56.60% or 30 participants included the “inability to read body language and non-verbal signals” while another 35.85% or 19 participants were concerned with the “inability to establish rapport to the parties.” Almost 26.42% or 14 participants were preoccupied with “confidentiality or privacy concerns,” and 22.64% or 12 participants worried about the “lack of pre-mediation preparation or walking clients through the online process.” Finally, almost 24.53% or 13 participants pointed out that “language or intercultural communication challenges” need to be considered, while 15.09% or 8 participants referred to the “inability to manage emotions” as yet another issue to grapple with.

Table 16

What gets in the way of a successful online solution, i.e., reaching resolution??



Coming to a resolution online has created a new set of challenges for CR practitioners. Many variables need to be considered when operating online that require more careful pre-preparation and patience while mastering technologies from both the end-user and client interaction.

Understanding human factors such as emotional and cultural intelligence and the disputant’s psychological needs require more in-depth understanding and awareness (Sternlight 2020).

Although there is evidence that ODR platforms help practitioners to be more effective and efficient, it is still questionable if better resolutions are reached online and if the disputants are more satisfied with an online approach.

Variable 17 – Future Usage: Do you see ODR as valuable for your business in the future?

Approximately 50.94% or 27 participants rated that they foresee ODR as “extremely valuable” for their business, while 26.42% or 14 participants answered that ODR is “very valuable.” Only 22.64% or 12 participants answered that ODR is “somewhat valuable.” There were no responses for the “not so valuable” and “not at all valuable.”

Table 17

Do you see ODR as valuable for your business in the future?

ANSWER CHOICES	RESPONSES	
Extremely valuable	50.94%	27
Very valuable	26.42%	14
Somewhat valuable	22.64%	12
Not so valuable	0.00%	0
Not at all valuable	0.00%	0
TOTAL		53

As Colin Rule reminds us, “Technology has flattened the limitations of time and space, and we will never go back to the way it was before” (2020, p. 3). The trends show that ODR is becoming more commonplace and possibly even a preferred way or even an alternative method of doing business. As technology continues to improve and make new strides in many sectors, practitioners in the ADR field can guide and steer developers in creating next-generation technologies that can better assist their daily business needs and reach a more extensive client base. As Ebner and Zeleznikow propose, “the field of online dispute resolution is at an important development point, on the cusp of being recognized, adopted and institutionalized by a number of national and international systems” (2016, p. 25). The pandemic has brought ODR to the forefront now for new discussion, innovation, and improvement.

Conclusion

Key Findings

Through the survey research, we investigated the various challenges experienced by conflict resolution practitioners, including what were both positive and negative impacts that COVID-19 had on their businesses. We were able to diagnose the general comfort level using technology and what kind of technology and services are typically chosen for their ADR businesses. We were also able to determine the influences of technological tools and software on ODR services. Most importantly, we could make some general comparisons of the effects between sexes (male/female) and ages (younger/older) ADR practitioners.

Discussion

This research study is simply a window in the initial understanding of technological tools' importance in online dispute resolution during the COVID-19 pandemic. Access to technology is one aspect of it but knowing how to use the tools to effectively resolve conflict while addressing the challenges that emerge from the ever-changing technology is critical. ODR practitioners must identify a platform that is easily accessible for their clients and manage that platform. This study also highlighted both positive and negative effects of COVID-19 on ODR practitioner's businesses. Gaps in skill sets for ODR practitioners and the need to improve suggest potential professional development opportunities in the conflict resolution field. Most importantly, it is undeniable that the majority of ODR practices take place in all sectors.

Recommendations/Limitations

With only 53 participants amid the ongoing COVID-19 pandemic, the findings in this report are subject to the following limitations: We cannot adequately measure and test if and how the virtual world has offered new opportunities beyond the classic ADR; due to the novelty of

coronavirus, there was difficulty finding relevant quantitative research literature. We recommend a focused study to determine how ODR will continue to grow in importance in the next few decades. As technology and AI's role continues to advance and enhance in capabilities, another look into ODR specific software and any new disputes arising due to technology use for practitioners should also be carefully considered.

One of the survey participants (Participant B) shared her in-depth concerns about how the pandemic forced her to shift the way she works in her home office space. Participant B shares below an antidotal concern undertaking conflict resolution online. Participant B's feedback expands on the new challenge practitioners are dealing with operating fully online in their private homes, an area not adequately addressed in the original survey.

“One thing I have found in my transition of my work to all online or 95% online, is the lack of creating a separate space to hold these difficult conversations and emotions. In restorative justice especially but also in broader peacebuilding it is often talked about space and the importance of space in holding dialogues, such as a neutral space, a comfortable space etc. I believe that space holds energy and so one thing that is helpful in not doing this work online is I can go to a place, talk about all the difficult things and then get up and walk away, leaving it there. If I am doing this work online, I might be talking about extremely traumatic things in a space that I consider my safe space, and when I talk about those super traumatic things in that space now they are there too, and it doesn't feel so safe. One instance of this I remember so vividly was teaching a graduate level course on restorative approaches to severe crime and we had a circle process that went so very intense. At the end of it, I had my class all leave the room and take some deep breaths. I completely rearranged the room and when they came back the energy had shifted and we were all able to ground ourselves and move forward in a way I am not sure we would have had the room stayed the same” (Fischer, 2020).

Contributions to the ODR Field

COVID-19 changed overnight how we all work and operate while raising the importance and growth of ODR usage. Many people were not familiar with using ODR until the coronavirus pandemic hit the United States, and social distancing regulations and lockdowns within each state forced CR practitioners to explore new options in their own homes. Nevertheless, life still

has to go on while conflict still needs to be resolved. Many CR practitioners working in person were forced to go online and do business in new and unprecedented ways. Until there is a vaccine for people to take, and Corona cases begin to subside, life can go back to a new normal of doing business in person. The use of ODR is not going anywhere any time soon as the world has to find a new way of living life, doing business, and resolving conflict.

The global mind shift and change in the ODR and ADR field have forced both new and old practitioners to switch to ODR platforms. A rethinking of old paradigms on traditional conflict resolution needs to happen for those that will be using new software and technologies now and in the future as ODR. COVID-19 has shown us that the preferred and traditional way of doing business has forever changed. If we are to plan for the future or another global health crisis, there is a need for adopting new collaborative, agile approaches to ODR. The development of hybrid models needs to be looked into and researched if we want the field to grow in a new direction. This approach could include CR practitioners partnering with tech companies to improve software while inventing new applications and software that help the ODR field grow. As shown in Table 17, 50.7% of the participants stated they see ODR as valuable for their future business. Not only is this a key finding of our research, but we have a better idea how COVID-19 has changed the way of doing business and what skills are essential to continue working in online settings in the future (Hornle, 2003).

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Annex

(Survey Monkey Results - see separate pdf attachment)