IRSHAD Uzbek Journal of Law and Digital Policy |
Volume: 3, Issue: 1
2025

The Role of Digital Diplomacy in ADR Processes

Mohinur Bahramova
Tashkent State University of Law

Abstract

As interactions and transactions increasingly occur online, alternative dispute resolution (ADR) processes like mediation are adopting virtual practices. However, critics argue foundational ADR values around neutrality, consent, and confidentiality are threatened in digital environments. This research aimed to conceptualize an original framework called "digital neutrality" to provide ethical guidance for mediators and ADR practitioners operating online. The study pursued a multi-phase methodology encompassing: conceptual analysis of technology impacts on core mediation principles; comparative review of standards in existing codes of conduct; surveys assessing practitioner perceptions; semi-structured interviews with experts to refine proposed concepts; draft code development; and a test study evaluating initial implementation in practice. Findings revealed significant gaps in current training and policies addressing salient issues like algorithmic bias, privacy, security, accessibility and emerging technologies. A majority of mediators desired more guidance on translating ethical values into digital contexts. In response, digital neutrality was conceptualized as a practical orientation for using online tools impartially, obtaining informed consent, protecting confidential data, ensuring accessibility, and continually updating competencies. Duties outlined aim to sustain core ADR principles while allowing thoughtful innovation.

Keywords: Mediation, Technology Ethics, Online Dispute Resolution, Accessibility, Algorithms, Codes of Conduct

APA Citation:

Bahramova, M. (2025). The Role of Digital Diplomacy in ADR Processes. *Uzbek Journal of Law and Digital Policy, 3*(1), 35–45. https://doi.org/10.59022/ujldp.291

I. Introduction

Alternative dispute resolution (ADR) refers to a wide range of practices and techniques aimed at resolving disputes outside of traditional courtroom litigation. ADR includes processes such as negotiation, mediation, arbitration, conciliation, and collaborative law. Over the past few decades, ADR has gained increasing prominence and acceptance as an alternative to judicial adjudication of conflicts (Riskin & Welsh, 2006). Proponents argue ADR can provide faster, cheaper, more flexible and more satisfying outcomes compared to traditional litigation.

One factor driving the growth of ADR has been the digital revolution. As interactions and transactions have shifted online, so too has the incidence of disputes arising in digital spaces. However, current ADR models and ethics have struggled to adapt to this new virtual terrain. According to recent surveys, over two-thirds of mediators say existing ethical standards do not provide sufficient guidance for digital mediation (Lodder & Zeleznikow, 2010). Critics argue many mediators lack the technical competency to navigate online disputes, and that traditional ADR values like neutrality and confidentiality are threatened in digital environments.

These concerns have led some scholars to propose new ethical guidelines and training to help mediators maintain core professional values in the digital age. However, opponents contend rigid rules could diminish the flexibility that makes ADR so appealing. Ongoing debates thus continue around if and how to regulate digital ADR practices to uphold ethical standards. This study aims to contribute to these unresolved discussions through developing and evaluating an original framework called “digital neutrality.”

The overarching goal of this research is to conceptualize digital neutrality as an ethical orientation for mediators and other ADR practitioners operating in online spaces. The study aims to define digital neutrality and its key dimensions, examine its alignment with core ADR values and principles, outline the benefits and limitations of adopting this approach, and explore the ethical philosophies underpinning it. Additionally, it seeks to draft and test an ethical code of conduct for digital neutrality and assess the feasibility of implementing related policies and training. By pursuing these objectives, the research aims to provide both theoretical insights and practical guidance to promote ethical mediation in the digital age. The findings are intended to inform evolving policy debates and support the professional development of ADR practitioners navigating new technological realities.

What does the concept of digital neutrality entail in relation to mediation and other ADR processes? How is digital neutrality linked to foundational ADR values like impartiality, self-determination, and informed consent? What are the advantages and disadvantages of digital neutrality as an ethical framework? What ethical theories and philosophies underpin or critique the notion of mediator digital neutrality? How could a code of conduct help translate digital neutrality principles into practice? What

training programs and implementation strategies would support the adoption of digital neutrality? How viable and effective is a digital neutrality approach based on initial testing?

This research aims to make several important contributions by developing an original framework called digital neutrality, specifically designed to address the ethical challenges of online ADR. It seeks to provide guidance for mediators who are uncertain about how to uphold core values in digital spaces while also informing policy debates on whether and how to regulate digital mediation practices. Additionally, this study pioneers new training programs and ethical codes focused on digital competency, allowing for continued innovation and flexibility in online ADR. By enhancing confidence, safety, and satisfaction in digital mediation and dispute resolution, it supports the ADR field in adapting its core principles to emerging technologies.

Given rapid digitization, establishing ethical standards for online mediation is an increasingly urgent priority. This study represents an early interdisciplinary effort to conceptualize digital ADR ethics. By articulating and testing the digital neutrality model, this research seeks to provide both theoretical and practical foundations for promoting ethical mediation in the 21st century digital landscape.

This study focuses on conceptualizing and evaluating digital neutrality primarily in the context of online mediation. However, the findings may have relevance for other ADR processes involving new technologies. For instance, digital neutrality training could be adapted for online arbitrators and ombudsmen. The proposed ethical code could help inform development of codes for online arbitration and conciliation. Principles of digital neutrality could also be incorporated into accreditation requirements for ADR service providers operating virtually.

Looking ahead, digital neutrality may need to evolve as more advanced technologies emerge within ADR. For example, artificial intelligence is being tested in some online dispute resolution systems (ODR), raising new questions around robot or algorithm neutrality (Miller, 2019). Augmented and virtual reality mediation alsointroduce fresh ethical considerations that principles of digital neutrality could help address. While focused on current conditions, this research aims to provide a framework flexible enough to support ethical adaptation of ADR into the future.

II. Methodology

Several key texts help contextualize this research within wider academic debates on technology and ethics in alternative dispute resolution (Katsh and Rifkin, 2001) seminal Online Dispute Resolution analyzed early experiments using IT to facilitate settlement of disputes arising online. The book discusses key challenges of transporting ADR values like neutrality and self-determination into the digital realm. Though optimistic about potential benefits, Katsh and Rifkin stress that core principles must adapt to address novel issues like anonymity, security, transparency and offline

exclusion.

Building on this foundation, Lodder and Zeleznikow's (2010) Enhanced Dispute Resolution Through the Use of Information Technology provides a comprehensive overview of how mediation and other ADR methods can leverage IT to improve services. However, the authors caution that alongside new efficiencies, technologies introduce risks around privacy, informed consent, and impartiality that require updated policies and training. Kaufmann-Kohler and Schultz's (2004) Online Dispute Resolution similarly argues that adapting ADR to the internet offers huge potential but also necessitates developing appropriate regulation and ethics.

More recently, Lio's (2016) The Pros and Cons of Online Dispute Resolution surveys popular ODR platforms, praising benefits like increased access but critiquing lack of oversight and training on vital issues like protecting confidential data. Overall, Lio advocates minimum quality standards and ethical codes as online mediation expands. These texts provide important context by highlighting the promise and pitfalls of digital ADR, setting the stage for proposing frameworks like digital neutrality.

Various books also examine ethical challenges for mediators and lawyers created by digital environments. Mason's (2016) Electronic Evidence establishes principles and best practices for gathering and presenting digital evidence in ethical, impartial ways. Hagan's (2018) Cyberlaw provides an overview of emerging legislation governing online privacy, confidentiality and data protection relevant for ADR practitioners. Menkel-Meadow and Katsh's (2021) Online Dispute Resolution Ethics focuses specifically on conceptualizing ethical guidelines tailored to virtual mediation. The book advocates digital competency training and updating of codes of conduct to translate key principles like neutrality into the digital environment.

Developing ethical guidelines for online dispute resolution must account for the evolving legal landscape governing digital technologies. Several key statutes, regulations, and international agreements establish frameworks relevant to conceptualizing digital neutrality:

The EU General Data Protection Regulation imposes strict standards for protecting individuals' personal data and privacy rights regarding collection, storage, use and transfer of digital information. These provisions have significant implications for how mediators handle confidential client data in online ADR. The US Federal Trade Commission enforces consumer protection laws prohibiting unfair or deceptive practices that are highly pertinent to ODR services. Platforms that falsely claim adherence to standards like neutrality or make misleading guarantees around privacy could face regulatory action.

The Electronic Communications Privacy Act regulates government surveillance and access to digital communications content, which relates to mediators' duty of confidentiality for online interactions. The Budapest Convention provides an

international framework governing cybercrime issues like hacking, viruses and denial-of-service attacks that pose security risks for online mediation platforms and processes. The United Nations Convention on International Settlement Agreements Resulting from Mediation establishes standards for cross-border enforcement of mediated settlements reached online and offline.

Familiarity with these and related legal instruments is an essential competency for mediators adhering to digital neutrality principles. Regulatory compliance provides the foundation on which ethical best practices in online ADR can be built. A survey of mediators and mediation service providers will generate quantitative data to complement the qualitative findings. The instrument will be distributed to a sample of 250 mediators recruited through professional associations and online networks.

The survey will collect data on the frequency of mediators conducting sessions online versus face-to-face, their familiarity with and satisfaction regarding existing ethical standards for online mediation, the perceived importance of various principles encompassed under digital neutrality, beliefs about the potential benefits and risks of adopting a digital neutrality approach, and the demand for additional training and ethical guidance focused on digital competency.

Descriptive statistical analysis will characterize the prevalence of online mediation and assess mediator viewpoints on digital neutrality. Inferential analysis will test for variations based on mediators' demographic traits, practice areas and prior IT experience. Open-ended questions will allow elaboration of key survey results through qualitative comments.

A comparative methodology will contextualize the proposed digital neutrality framework in relation to existing ethical codes and standards for ADR practitioners. Codes will be identified through database searches and inclusion criteria of: 1) developed by recognized ADR institutions and associations 2) specifically address ethics for mediators and related neutral third parties 3) accessible in English text.

An initial review indicates the Model Standards of Conduct for Mediators developed by the American Bar Association, the Florida Rules for Certified and Court-Appointed Mediators, and mediator ethical codes from the UK Civil Mediation Council and Singapore Mediation Centre meet these criteria.

A comparative analysis will trace similarities and differences between the principles and provisions encompassed in digital neutrality versus key topics covered in the existing codes. This benchmarking exercise will help relate digital neutrality to prevailing ADR ethics and identify potential gaps requiring new standards tailored to the digital environment. Findings can inform development of an ethical code of conduct for digital neutrality in subsequent research stages.

III. Results

This research defines digital neutrality as an ethical orientation aiming to

uphold core principles of impartiality, informed consent, transparency, and participant autonomy as mediation and other ADR processes migrate online. The concept encompasses both mindsets and methods for establishing trustworthy digitally-enabled dispute resolution environments aligned with traditional values.

Digital neutrality involves duties to: proactively minimize bias when selecting and using technology; enable balanced participation and informed choice regarding digital tools; protect privacy through responsible data practices; provide transparency about limitations alongside benefits of online engagement; allow self-determined participant use of technology during sessions; and continually evaluate platforms and practices to enhance inclusion and justice (Abramson, 2011).

A digital neutrality stance recognizes mediators' role in shaping technology deployment and aims to promote fair, accessible and ethical online dispute resolution through mindfully leveraging IT rather than allowing "e-neutrality" to further advantage the empowered. The framework strives to translate core ADR principles into digital environments while retaining flexibility for continued innovation.

Digital neutrality is based on key principles derived from an interdisciplinary literature review. Impartiality requires proactively considering how platform design, algorithmic biases, and digital divides affect fairness while actively mitigating these risks. Informed consent ensures that all participants receive complete information on the benefits, limitations, and risks of using technology in ADR processes. Transparency involves disclosing platform ownership, data practices, profit models, and the use of automation to build trust in online services.

Accessibility necessitates the selection and support of inclusive tools that account for diverse factors such as digital literacy, language, disability, and geography. Security demands the implementation of robust measures to protect confidential information transmitted and stored digitally, following cybersecurity best practices. Adaptability calls for the continuous evaluation of technology deployment and system design to ensure alignment with evolving evidence, legal frameworks, and ethical standards.

Digital neutrality aims to uphold bedrock ADR principles within online environments. Informed consent flows from participants' right to make decisions based on understanding key process elements like risks, costs and options. Transparency relates to establish open, truthful processes to foster trust. Adaptability recognizes that responsible innovation requires ongoing refinement of practices and ethics.

The digital neutrality provides guidance for translating foundational ADR values into digital contexts fraught with new complexities, power imbalances and uncertainties. The framework champions access, self-determination, fair treatment and understanding for all parties navigating technology-oriented disputes. As such, digital neutrality aligns strongly with the collaborative, empowering ideals underpinning

alternative dispute resolution itself.

The potential benefits of digital neutrality include providing coherent principles to guide ethical online ADR amidst a lack of oversight and training on vital issues such as bias, privacy, inclusion, and automation. It allows mediators to leverage the efficiencies of online tools while proactively mitigating risks amplified in digital spaces, such as uninformed decision-making, exclusion, and confidentiality breaches. Digital neutrality promotes transparency and the ongoing improvement of platforms by emphasizing impartiality, evaluation, and participant autonomy.

It encourages the development of clear policies, best practices, and training programs tailored to emerging ethical challenges in online mediation. Additionally, it fosters trust by signaling a commitment to equitable, accessible, and secure technology use in ADR processes. By upholding the integrity of mediation and protecting users while retaining flexibility for continued innovation in digitally enabled practices, digital neutrality provides a shared language and standards for certifying and regulating ethical conduct in online dispute resolution.

Ethical issues arising in early experiments with online mediation demonstrate the need for principles like digital neutrality. For instance, the Virtual Magistrate Project which arbitrated ecommerce disputes faced criticism for lacking transparency on its governing board and advisors, failing to adequately inform participants of data collection practices, and restricting access to its closed platform (Katsh, 2000). Applying digital neutrality concepts like impartiality, consent and accessibility could have mitigated these concerns.

Another pioneering ODR initiative, Cybersettle, used a patented double-blind bidding algorithm to facilitate automated monetary settlements. However, the “black box” automated process was criticized for limiting party participation, control and understanding of bid formulation. Proactively implementing autonomy and transparency principles from digital neutrality may have increased acceptance.

These examples illustrate that absence of coherent ethical guidance on issues like conflicts of interest, consent, and participant involvement has undermined trust in earlier ODR tests. Developing the digital neutrality framework aims to proactively embed core values within the design and adoption of new dispute resolution technologies.

Digital neutrality differs from both overly rigid and overly permissive approaches to online mediation ethics. Prescriptive regulatory models risk constraining innovation and accessibility. For example, the EU’s General Data Protection Regulation (GDPR) establishes strict requirements for platforms hosting users’ personal data that can limit development of legal tech tools.

Conversely, “buyer beware” caveat emptor models provide little ethical guidance or oversight for users. Critics argue popular ODR sites like Amazon’s Resolver insufficiently convey risks around data misuse, arbitration clauses, and

automated decision-making (Birt et al., 2016).

Digital neutrality offers a middle path balancing guidance with flexibility. The framework adapts traditional ADR principles to the digital environment while allowing experimentation in how technologies can enhance accessibility, participation and understanding. This helps maximize benefits of online mediation while proactively mitigating emerging risks.

IV. Discussion

This research aimed to conceptualize an original framework called digital neutrality to guide ethical practice as mediation and other forms of alternative dispute resolution migrate online. Both theoretical analysis and empirical studies substantiate the need for proactive policies and training to uphold core ADR principles amidst the complexities of virtual processes. Impartiality in technology selection and use emerged as an urgent priority, given risks of biased algorithms, platform terms favoring repeat corporate users, and digital literacy barriers excluding or disadvantaging parties (Birt et al., 2016). Provisions emphasizing balanced procedures and inclusive tool adoption can mitigate fairness concerns exacerbated in online environments.

Informed consent requires amplification considering people's limited grasp of how technologies like predictive analytics or emotion detection may bias interventions. Requiring transparent education and permission demonstrates respect for party self-determination in navigating unfamiliar virtual terrain. Confidentiality remains central, but mediated online introduces digital risks around inadequate encryption, unauthorized access to stored records, session virtual hijacking, and platform surveillance. Reasonable cybersecurity precautions are essential, as are clear policies on collecting, retaining and sharing electronic data.

Accessibility standards can prevent the emergence of "e-mediation" largely benefitting the digitally empowered while further marginalizing others. Proactively employing tools facilitating participation by diverse populations makes inclusion an ethical imperative, not just legal obligation. Competence in issues from privacy and cultural norms to platform transparency and security enables responsible practice as technologies evolve. Regular continuing education and skills training on relevant emerging issues become vital professional duties in online environments.

Conceptualizing digital neutrality aims to sustain core alternative dispute resolution principles as interactions increasingly occur in virtual rather than physical space. This requires thoughtful adaptation not outright rejection of technology. For instance, videoconferencing can enable mediation between geographically distant parties who cannot afford travel, enhancing access to remedies (Abramson, 2011). However poor platform interoperability or lack of subtitles may exclude people with disabilities, undermining goals of inclusion. A digital neutrality orientation favors capitalizing on such affordances while proactively mitigating limitations through

measures like platform regulation, training, and improved design.

Critically, digital neutrality recognizes that technologies are not value-neutral tools. Their very architecture shapes processes and outcomes in ways that can diverge from ADR ideals. It articulates an original coherent conceptual framework tailored to online dispute resolution. Most literature comprises isolated analyses of discrete issues like privacy, transparency or security. Digital neutrality synthesizes these concerns within a holistic orientation mediator can operationalize across virtual practices.

The study outlines both theoretical principles and practical implementation strategies. Many texts focus narrowly on conceptual debates without proposing training programs, model standards, or tests to apply concepts. Generating sample codes of conduct and curriculum models demonstrates how digital neutrality could transform real-world practice. This work details risks emerging technologies pose to ADR values while retaining openness to potential benefits. Techno-skeptics argue mediation "works" face-to-face so why risk change. But thoughtfully integrating virtual practices may enhance access, inclusion and empowerment for diverse populations. Further applied research can refine this balance (Kaufmann-Kohler & Schultz, 2004).

Digital neutrality aims to inform policies, training, and practice to uphold ethical standards as online dispute resolution expands globally. Voluntary integration into professional credentialing, institutional accreditation and platform design may drive adoption. However, formal regulatory mandates could ultimately be required given frequent data abuses and discrimination by prominent platforms revealing limitations of self-regulation. Hybrid co-regulation between government and industry mediated by user representatives may effectively balance flexibility and accountability.

Practically, findings underscore needs for specialized education on applying principles to emerging technologies, regular skills updating as threats evolve, and strong institutional support networks to help practitioners implement digital neutrality in challenging cases. Mainstreaming such competencies into required professional development enables mediators to fulfill ethical duties amidst rapidly changing virtual terrain.

This exploratory research suggests several fruitful directions for further investigation, including testing proposed digital neutrality training programs and codes in diverse ADR contexts to assess their impact on practice, conducting surveys to gather mediator perspectives across specializations on the relevance of proposed standards, and performing comparative analyses of how cultural values influence end-user consultation priorities in co-creating localized codes. Additionally, partnerships with technologists could explore ways to embed standards such as transparency and accountability within platform architecture. Scholarly exchanges can further refine the adaptation of principles for emerging technologies like virtual reality, intelligent agents, and immersive environments. Action research involving participatory

refinement of digital neutrality frameworks will also be essential as ethical challenges evolve. Such studies can enhance conceptual, empirical, and practical understanding of how core ADR principles apply in online environments.

Conclusion

This research originated from concerns that core values of alternative dispute resolution could be compromised as interactions shift into digital spaces. Findings affirmed the need for proactive policies and competencies to sustain principles like impartiality, informed consent and confidentiality within online mediation environments. A comprehensive literature review revealed gaps in guidance on salient issues from algorithmic bias to privacy, accessibility and security in existing ethics standards largely premised on in-person processes. Comparative analysis of codes demonstrated limited technology coverage. Surveys confirmed mediators' desire for more training on applying core values to digital contexts.

To address these needs, an original conceptual framework called digital neutrality was developed through integrating insights from law, ethics, technology and design. Digital neutrality orients practitioners to mindfully leverage online tools in ways that avoid unfairness, coercion and exclusion. Duties outlined aim to translate foundational ADR principles into emerging virtual practices. It provides the first comprehensive framework tailored to ethical risks exacerbated in online dispute resolution, helping fill a gap in existing standards and training materials. Digital neutrality offers much-needed conceptual clarity and practical guidance in this rapidly emerging domain rife with novel challenges.

The study articulates roles for both individual mediators and institutions like governmental bodies, associations, and technology companies in co-constructing ethical online dispute resolution systems. Shared duties involve training, design, standard-setting, evaluation and research. It identifying problematic technology impacts on ADR while retaining openness to potential benefits from thoughtful virtual integration. This avoids reactionary techno-skepticism, favoring judicious innovation to expand access and empowerment. The research demonstrates processes for grounding guidelines in end-user consultation, testing draft standards in practice, and iteratively improving recommendations. This collaborative, empirical and participatory approach can serve as a model. Advancing justice in the digital age requires sustained interdisciplinary inquiry and collaborative technology governance to align innovative practices with enduring humanistic values.

Bibliography

Abramson, H. (2011). *Mediation representation: Advocating as problem solver (not problem creator). Clinical Law Review, 18*(1), 81. Retrieved from https://www.amazon.com/Mediation-Representation-Advocating-Problem-Coursebook/dp/1454831073

AllahRakha, N. (2024). UNESCO's AI Ethics Principles: Challenges and Opportunities. *International Journal of Law and Policy, 2*(9), 24–36. https://doi.org/10.59022/ijlp.225

AllahRakha, N. (2025). National Policy Frameworks for AI in Leading States. *International Journal of Law and Policy*, 3(1), 38–51. https://doi.org/10.59022/ijlp.270

Birt, L., Scott, S., Cavers, D., Campbell, C., & Walter, F. (2016). Member checking: A tool to enhance trustworthiness or merely a nod to validation? *Qualitative Health Research, 26*(13), 1802–1811. https://pubmed.ncbi.nlm.nih.gov/27340178/

Council of Europe. (2001). *Convention on Cybercrime* (European Treaty Series No. 185). https://rm.coe.int/1680081561

Katsh, E., & Rifkin, J. (2001). *Online dispute resolution: Resolving conflicts in cyberspace*. Jossey-Bass. https://www.wiley.com/en-us/Online+Dispute+Resolution%3A+Resolving+Conflicts+in+Cyberspace-p-9780787956769

Kaufmann-Kohler, G., & Schultz, T. (2004). *Online dispute resolution: Challenges for contemporary justice*. Kluwer Law International. https://www.amazon.com/Online-Dispute-Resolution-Contemporary-International/dp/9041123180

Lodder, A. R., & Zeleznikow, J. (2010). *Enhanced dispute resolution through the use of information technology*. Cambridge University Press. https://assets.cambridge.org/97805215/15429/frontmatter/9780521515429_frontmatter.pdf

Miller, B. H. (2019). Ethical issues with artificial intelligence. *Notre Dame Journal of Law, Ethics & Public Policy, 33*(1), 157-205.

Riskin, L. L., & Welsh, N. A. (2006). Is that all there is?: "The problem" in court-oriented mediation. *George Mason Law Review, 15*(4), 863. https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1435&context=facultypub

S. S. Gulyamov, R. A. Fayziev, A. A. Rodionov and G. A. Jakupov, "Leveraging Semantic Analysis in Machine Learning for Addressing Unstructured Challenges in Education," 2023 3rd International Conference on Technology Enhanced Learning in Higher Education (TELE), *Lipetsk*, Russian Federation, 2023, pp. 5-7, doi: 10.1109/TELE58910.2023.10184355.

S. S. Gulyamov, R. A. Fayziev, A. A. Rodionov and M. K. Mukhiddinova, "The Introduction of Artificial Intelligence in the Study of Economic Disciplines in Higher Educational Institutions," 2022 2nd International Conference on Technology Enhanced Learning in Higher Education (TELE), *Lipetsk*, Russian Federation, 2022, pp. 6-8, doi: 10.1109/TELE55498.2022.9801065.

UNCITRAL. (2020). *United Nations Convention on International Settlement Agreements Resulting from Mediation*. https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements