



# EMERGING TECHNOLOGIES AND SMART CONTRACTS IN ARBITRATION/ADR

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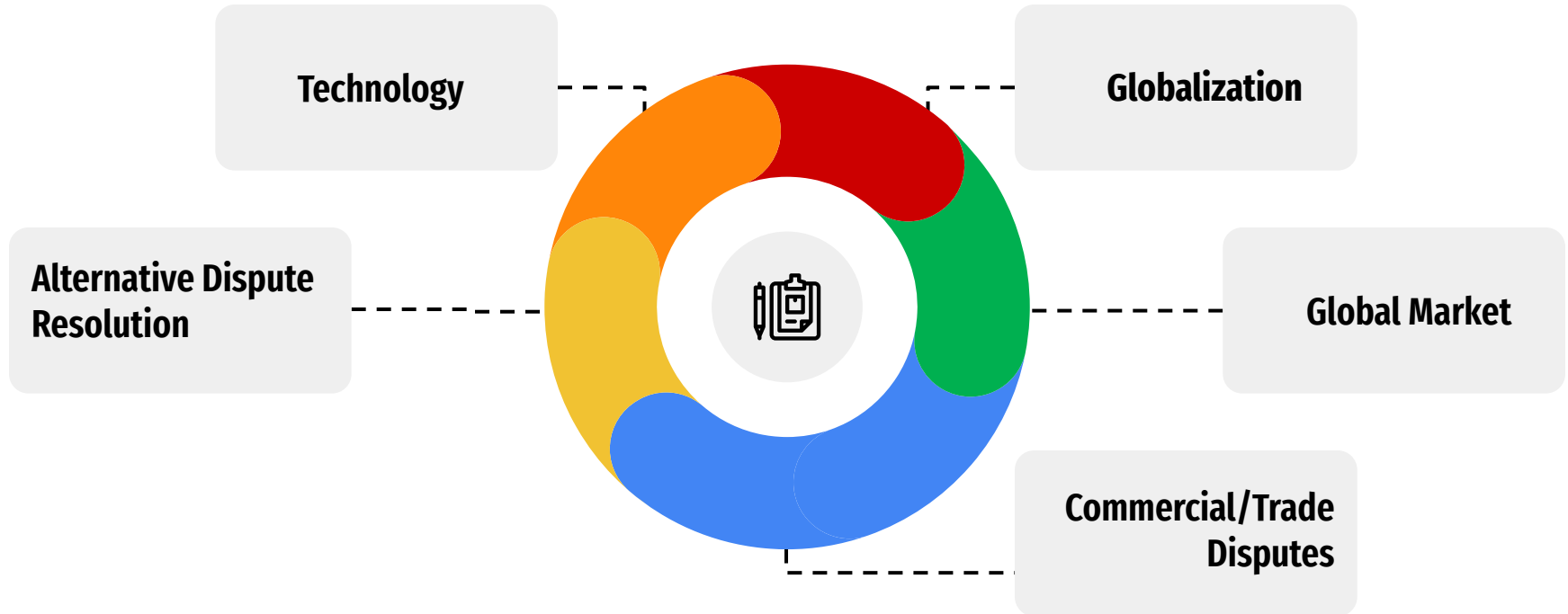
# INTRODUCTION – THE REVOLUTION OF ADR

- **No time in the history of the legal industry has the core of its practice been subject to a series of changes as it has in the last 4 decades and the driver of these changes is none other than TECHNOLOGY.**
- **It began with the advent of the World Wide Web in 1989. The World Wide Web widened the prior narrow channel of communication and human interactions globally. As the window of communication became wider, the world began to be more connected and businesses began to operate on an international scale. (GLOBALIZATION)**
- **As human interactions expanded, businesses also expanded, and like a pyramid, conflicts also began to increase. The courts could no longer handle the high increase, new disputes that were foreign to the laws in force at that time began to arise, matters were taking too long to get resolved and the outcomes were not satisfactory to the disputant.**

# INTRODUCTION – THE REVOLUTION OF ADR

- **As the world began to evolve into a global village, business owners began to see the urgent need to get their disputes resolved on their own terms, in time so that they could continue to mind their businesses and possibly not lose out on further transactions with one another.**
- **This desire could only be a reality via Alternative Dispute Resolution**
- **NOTE: ADR WAS ACTUALLY THE EARLIEST MEANS OF RESOLVING DISPUTES BUT WAS OUSTED BY LITIGATION.**
- **So once again, ADR became the 1<sup>st</sup> choice for resolving disputes courtesy of TECHNOLOGY**

# ADR AND THE TECHNOLOGY CYCLE



# INTRODUCTION - ADR AND TECHNOLOGY CYCLE

**ADR largely inherited the traits of technology to deliver on its core merits which are;**

**Convenience**

**Efficiency**

**Speed of Dispute Resolution**

# CHANGING PARADIGMS IN TECHNOLOGY

**It is important to remember that technology had begun its transforming cum disruptive effect on local and global contractual relationships, and as emerging technologies continue to dive deeper into these relationships, there is a likelihood that there will be an increase in the number and a change in the nature of the disputes and newer kinds of disputes will spring up.**

# SOME FACTS & FIGURES

According to a survey of over 500 corporate counsel, risk managers, IT specialists and compliance professionals conducted by law firm CMS, half of the respondents believe that the use of AI technologies will give rise to risks and disputes that cannot be foreseen now, and 56 per cent expect AI to be a leading source of increased disputes.

The survey, *Technology Transformation: Managing Risks in a Changing Landscape*, says the leading sources of disputes over the past three years have been compliance and regulatory issues (as stated by 65 percent of respondents); performance/service level and outsourcing disputes (61 per cent); intellectual property (IP) and trade secrets (52 per cent); and software licensing disputes (51 per cent).

Respondents believe IP and trade secrets will become the biggest area for potential disputes in the coming three years, with issues arising from AI, smart contracts and cryptocurrencies following suit.

(source: <https://www.ibanet.org/disputes-AI-use-increases> Article by Neil Hodge, published on Wednesday 24 August 2022)

# EMERGING TECHNOLOGIES





# WHAT ARE EMERGING TECHNOLOGIES?



**Emerging Technologies are not new technologies, rather they are innovations from known developments whose potentials were not realized until they were improved or better implemented.**

**These potentials are being expressed through:**

**Digital Disruption**

**Digital Transformation**

# DIGITAL DISRUPTION

## Digital Disruption

A radical change to an existing industry or business model due to technological innovation

Artificial Intelligence refers to systems or machines that mimic human intelligence to perform tasks and can iteratively improve themselves based on the information they collect.

### Artificial Intelligence

### BlockChain Technology (SMART CONTRACTS)

Blockchain is a **system of recording information in a way that makes it difficult or impossible to change, hack, or cheat the system**. A blockchain is essentially a digital ledger of transactions that is duplicated and distributed across an entire network of multiple computer systems.

- <https://www.euromoney.com/learning/blockchain-in-explained/what-is-blockchain#>

# PONDERING QUESTIONS

Of all the emerging technologies,

ARTIFICIAL INTELLIGENCE

BLOCKCHAINS & SMART  
CONTRACTS

are at the fore of disrupting ADR practice and begging the following questions:

1. Will there be a time when commercial disputes will be **resolved without humans**?
2. **How prepared** are we for this new shift?

3.

# AVERAGE OR ADVANCED USE OF TECHNOLOGY?

As it is in the nature of the legal practice, Arbitrators and Mediators were comfortable limiting the application of technology to the use of emails and phones as channels of communication and of computers for the preparation of agreements, until another jolting shift in the modus operandi of commercial transactions brought about by **EMERGING TECHNOLOGIES**.



# ARTIFICIAL INTELLIGENCE

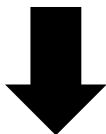


# ARTIFICIAL INTELLIGENCE - A.I



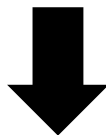
# CAPABILITIES AND POTENTIALS OF A.I IN ADR

**FULLY  
AUTOMATED  
MEDIATION**



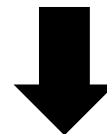
**e.g smartsettle**

**ORGANIZATIONAL  
KNOWLEDGE  
MANAGEMENT AND  
DOCUMENT REVIEW**



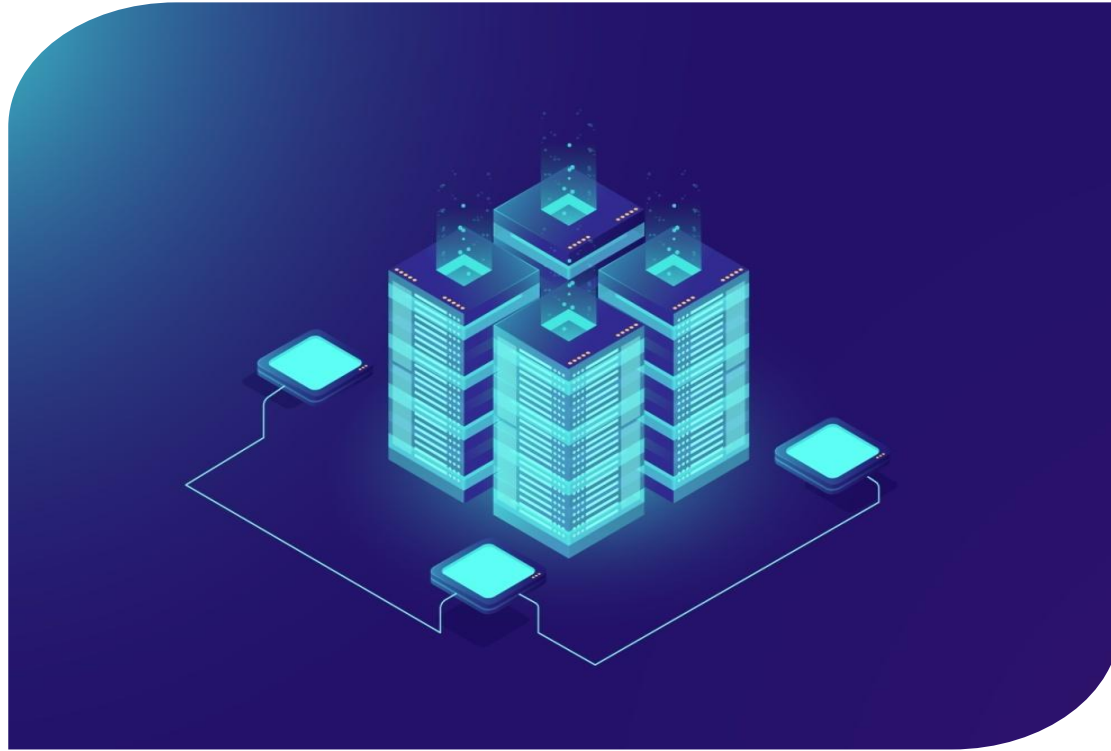
**e.g OKM by LawPavilion,  
e-brevia**

**PREDICTION  
MODELS**



**e.G ArbiLex**

# BLOCKCHAIN TECHNOLOGY & SMART CONTRACTS





# DYNAMICS OF BLOCKCHAIN

**BLOCKCHAIN**

```
graph LR; Blockchain[BLOCKCHAIN] --- SmartContracts[Smart Contracts]; Blockchain --- DeFi[DeFi]; Blockchain --- NFTs[NFTs];
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The diagram features a central orange rounded rectangle labeled 'BLOCKCHAIN' on a dark grey background. To its right, a vertical grey bracket groups three stacked orange rounded rectangles labeled 'Smart Contracts', 'DeFi', and 'NFTs' from top to bottom.

**Smart Contracts**

**DeFi**

**NFTs**

# DYNAMICS OF BLOCKCHAIN

Smart contracts are like real contracts, but they are digital and are stored and executed on a **BLOCKCHAIN**. They are self-executing, autonomous protocols that facilitate, execute and enforce commercial agreements between two or more parties.

Decentralized finance eliminates intermediaries by allowing people, merchants, and businesses to conduct financial transactions through emerging technology.

- NFTs (non-fungible tokens) are unique cryptographic tokens that exist on a blockchain and cannot be replicated.
- NFTs can represent real-world items like artwork and real estate.
- "Tokenizing" these real-world tangible assets makes buying, selling, and trading them more efficient while reducing the probability of fraud.

**IF/THEN**

# TRENDS IN BLOCKCHAIN DISPUTE RESOLUTION PLATFORMS

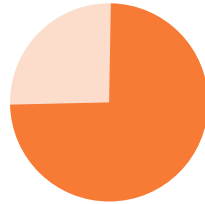
- **Kleros:** A dispute app built on Ethereum platform. Their platform randomly chooses vetted jurors. They are selected based on the cryptocurrency they have staked and their qualifications in dispute field. Staking is the act of offering cryptocurrency as collateral for the opportunity to be chosen as a juror.
- **Codelegit:** It is a smart contracts platform with built in functionality to resolve disputes. When a dispute arises, codelegit enables the parties to pause the execution of smart contract logic Parties who agree to codelegit certified smart contract also agree to arbitration prior to transacting with one another using arbitration clauses from the Blockchain Arbitration Association. As a result, in the case of a dispute, human arbitrators can be automatically activated to adjudicate on the dispute after which codelegit smart contract resumes
- **Bisq:** This is a software that enables bitcoin exchange. It's dispute resolution mechanism has 3 levels; trader chat, mediation and arbitration.
- **Other digital dispute resolution platforms include;** open bazaar, Bitrated, Aragon court and Jur.

# THE EMERGING FUTURE

**A.I and Blockchains are evolving, so their capacities and potentials cannot be completely envisioned. Yet, the possibility of it being the highest subject matter of disputes in a few years has been forecast. Just as the revolution of the early 90s, ADR/arbitration in particular is the most suitable and optimal mechanism for resolving disputes arising from them.**

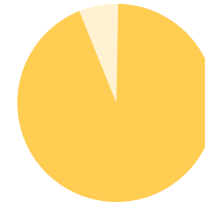
# THE EMERGING FUTURE

The Queen Mary University of London Survey on Pre-empting and Resolving Technology, Media and Telecoms (TMT) Disputes conducted in 2016 recorded that



75%

At least 75 percent of the TMT organisations surveyed had mediation followed by arbitration as the most preferred dispute resolution mechanisms



92%

92 Percent of respondents viewed international arbitration as well suited for TMT disputes.

# TECHNOLOGY WILL NOT WAIT FOR US TO BE READY



# REPLACING HUMANS IN ADR?

While we may agree that emerging technology cannot completely take the place of human mediators or arbitrators, the next question then is ,  
**HOW PREPARED ARE WE TO MATCH THIS NEXT WAVE OF ADR REVOLUTION?**

# How can we match the trend?

First, I must say that we have taken a step in the right direction by discussing these technologies in this conference. Then we must take steps further by

Reviewing our 'almost-rigid-legalistic' practice of arbitration

Advocating for reforms to spell out the legal frameworks of digital assets

Advocating for the amendment of the legal framework of ADR in Nigeria to accommodate Digital/Online Dispute Resolution if need be

Acquiring Digital skills and literacy

Staying local but ensuring that we play global



# CONCLUSION

Whether transforming or totally redefining ADR/Arbitration, it is unequivocal that the potentials of Emerging Technologies cannot be completely envisaged. It is therefore important to look beyond its current limitations and perhaps the technological limitation of the continent and 'skill-up' so as not to be left behind in this digital (R)evolution.

*Thank You!*