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Social Media-Tion: A Constructive Approach to Dispute Resolution?

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Abstract: In the twenty-first century which is regarded as the dawn of the social media age, the disputants, as well as the legal professionals such as advocates and judges, embrace the information available at their disposal on several social media platforms. It has altered the conduct of arbitration by changing the way disputants communicate. Being the modern tool for communication, it has elevated the speed and dissemination of information, which allows audiences to follow the dispute and express their support or dissatisfaction towards the disputants. As a consequence, the parties seeking redressal of their grievances through ADR get influenced due to the formation of 'unconscious bias'. Communication is the epitome of the dispute resolution process, and the intervention of social media in the process generates a ghost syndrome, thus, resulting in the fading of such epitome. Its impact is not restricted to the parties but has the potential to undermine the independence, integrity, and impartiality of the judge or the mediator. Social Media has become significant within the legal domain as technology penetrates all ambits of individual endeavors. Looking towards the positive contributions, it acts as a source of evidence, especially in employment and labor disputes. Transformations in communication technologies have altered the definition of power in international arbitration, the class of individuals participating in the process, and strategies employed to mediate the conflict. The paper intends to discuss the elite usage and manipulation of social media impacting ADR, the cases influenced by it, and the theoretical framework required for its conduct.

Keywords: Social media. Dispute resolution. Technology. Ethical conduct.

Summary: Introduction – Background – Social media vis-à-vis ADR – Social media as a “Liberation Technology” for dispute resolution – Impact of social media in dispute resolution: a bane – Critical analysis of social media influence on the adjudicators: a threat to justice administration – Way forward: an approach to maintain ethical conduct and social etiquette – Conclusion – Bibliographic references

Introduction

Edmund Burke perceived media as the fourth pillar of democracy. This pillar acts as a bridge between the people and the government.¹ Undoubtedly, the media

¹ Pratiyush Kumar, Kuljit Singh. Media, the Fourth Pillar of Democracy: A Critical Analysis. International Journal of Research and Analytical Reviews. March, 2019.

strengthens the process of democracy and is pivotal for the development of a country. However, the people need to segregate and chalk out the accurate and unerring information as the media directly impacts the people and often influences and changes the perception of an individual. In the last couple of decades, the reach and growth of media have been further amplified by the advent of the internet. The internet facilitates people to acquire and retrieve gigantic amounts of information within seconds and enables people to express their opinions through social networking sites like Instagram, Twitter, and Facebook. Social media has now become an integral part of every individual's life. Since there is no barrier, every person has the freedom to share their views on a global platform and spread information that might be inappropriate and incorrect at times, which can potentially cause havoc. Even the judiciary and the other dispute resolution forums are not immune from this. The increasing overreach of social media has an impact on the parties to the dispute as well as the judge or the mediator, as the case may be, diluting their opinion and frame of mind.

Background

Social scientists have been working with the social network to induce the conventional techniques of dispute resolution in cyberspace. The role of professional, unbiased, and independent media to achieve good governance has earned immense traction in the international developing community. Through social media, individuals have access to the free flow of information which enables dialogues by encouraging individuals to express their opinions, inspires political participation in a greater number and thus, fosters accountability.

The authentication of social media acting as a liberation technology can be recognized from the role media played during the late 1980s and 1990s. Development programmes encouraging regional media institutions to be independent lead to the downfall of the Soviet Union and terminated the Cold War. Introduction of revolutionary voices on radio stations and underground production and supply of restricted publications² attributed to the collapse of communism.

With the credibility of 'media for advancement' set up in post-Soviet alliance nations, it was believed the advancement of skilled and independent media could assist as a significant segment in constructing civil society, and steadiness, in post-conflict nations around the world. Since that time, media assistance projects have extended both in territory and scope. Numerous international, regional, and local associations and UN organizations are presently working with media

² Amelia Arsenault, Shawn Powers, "The Media Map Project: Review of Literature". November, 2010.

in conflict-stressed nations utilizing an assortment of devices and approaches to promote discussions across nations and assure all segments of society, that they are part of an efficient democratic discourse which is the foundation of democracy.

Alternative Dispute Resolution is considered as a non-judicial accumulation of techniques for dispute resolution without any involvement of the court or any kind of violence. These processes incorporate arbitration, collaborative problem solving, neutral case evaluation, and mediation. Such a process gives parties a more dynamic role to resolve the conflict with a much faster and less expensive decision-making process. The collaboration between dispute resolution and social media has been both constructive and destructive. Since the exposure of dispute resolution as an alternative component for conflict settlement, arbitral establishments and arbitrators overall have been positively accepted by the public, both in regional and international communities. Regardless, this still-not-established blend of social media and dispute-resolution presents some incongruence, since dispute resolution depends on the reason that the authorities who structure the board have the commitment to be a free and fair-minded body and should not have any bond with the gatherings in question; but this reason, by reference to social networking, isn't in every case valid.

Social media vis-à-vis ADR

The vast outreach of social media and its usage by parties to the dispute have inherent risk and challenges which highlight issues of ethics and integrity. United States' Conference of Court Public Information Officers have published annual reports in the year 2010 pertaining to the use of "New Media" in the courts³ and it was observed that there are three attributes of "new media" that have a discrepancy with the fundamental tenets of the adjudicatory system. The report further demonstrate the transformation that has taken place in the media sector. The report disintegrated the multifaceted new media landscape into four parts. They are: Legacy Media, Traditional/PR Outreach, Digital Media Web 1.0, and Social Media Web 2.0.

³ "New Media and the Courts Reports/2010-2011-2012-2013," Conference of Court Public Information Officers; available at: <http://ccpio.org/publications/reports/>

(A) Differences with respect to functional strategy: There are three communication media:⁴

Interpersonal Media	“One to One”
Mass Media	“One to Many”
New Media	“Many to Many”

Table 1: The above table shows the three kinds of communication media,

On the other hand, adjudicator forums generally communicate one way by issuing orders to which the parties to a dispute complies. Resolving this inherent inconsistency between the “new media” and the “judiciary” will be a herculean task.

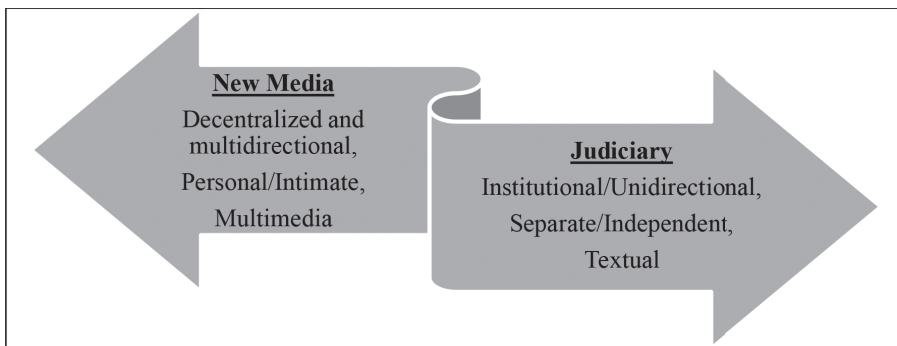


Fig. 1: The above figure indicates the new media, which encompasses social media, which are multidirectional and decentralized whereas the adjudicatory forums operate in an institutional and a unidirectional manner.

(B) Differences with respect to manner of communication: New media facilitates one-to-one communication i.e. personal communication and confidentiality is maintained thereof, provided one’s privacy is not breached by the other party. This inherent feature of social media is again divergent to the manner in which adjudicatory forums and traditional courts communicate. The dispute resolution forums function by ensuring that transparency is maintained throughout the process so that the entire proceedings are conducted impartially. Therefore, there is no congruity in the communication process of “judiciary” and “new media”.

After the digital revolution, information is exchanged through new media, multimedia in nature, which facilitates the dissemination of information in the form of video and audio clips, text, and still images. On the contrary, the law is concerned with a precise definition of terms, interpretation of statutory and judicial language, and the precise parsing of speech which all are textual.

⁴ Ibid.

Social media as a “Liberation Technology” for dispute resolution

There has been an extensive uptake of social media usage by legal professionals and in dispute resolution over the current years, however with the embrace of the 21st-century mediator comes with an obligation to utilize these web-based media ethically. Social media act as a novel additional variable within the legal domain as innovation overruns all ambits of the human undertaking. Regardless of whether we access them in our work environments or somewhere else, social media at this point don't serve exclusively to keep us associated with family and friends yet additionally build up vital organizations of professionals in the global labour market. International mediation and dispute resolution have, since quite a while back, been positively influenced by social networks.

1. A great source of evidence: It is just a reality that information we contribute to social media platforms turns out to be inconclusively stocked and conveniently can be extracted for future access. We have made some amazing progress from just granting an original document as proof to permitting Facebook, Instagram, or Twitter messages and posts to be utilized in civil and criminal trials. With regards to the arbitrators, social media isn't simply being utilized in criminal, defamation, and family cases. Its utilization in intellectual property, commercial, employment, personal injury, and product liability cases is rapidly developing. Arbitrators and Lawyers across the countries are progressively relying on evidence acquired from social networking websites. It offers a platform to the parties, litigants, and arbitral tribunal, both at an international and regional level, to confront the parties, conduct rational decisions based on the evidence produced to resolve the conflict between the parties and bring them into common understandings, even across ethnic, religious, and socio-economic divisions.

For instance, Albanian communities deal with various issues, the beginnings of which, too as their outcomes, are multidimensional. The arbitration process is moderately a novel process in legal advancement in Albania.⁵ Nonetheless, the arbitration process gained popularity in the Albanian community because of the influence of the media. Social media has brought a dynamic development in the arbitration process through its application of making the evidence easily accessible, thus, influencing the individuals to approach the dispute resolution to get the deal done.

⁵ Av. Eni Cobani, Dr. Engjëllushe Zenelaj. Some of the Impact of Mediatisation of Mediation Law Process. Academic Journal of Interdisciplinary Studies. July, 2018.

2. Conflict Management Role and Social Cohesion: The boundary between real and virtual is progressively obscured in the time of social media. Our social and political consciousness is displayed and communicated over social media and, thus, social media molds the narratives that reconstruct our reality. While references to social media and legislative issues quickly infer mind polarization, counterfeit news, and enmity, social media additionally has huge positive potential for interfacing broadly unique individuals and networks.

A conflict-sensitive approach to deal with social media utilization can help people and associations grasp this potential and prohibit some basic entanglements. This conflict-sensitive approach indirectly helps in the administration of International Dispute Resolution.⁶ Not providing people with the opportunity to participate in political debates and prohibiting them from expressing their opinions is the most common cause of conflict. As said by Harry S. Truman, the 33rd President of the United States, one can never obtain all the facts just from one newspaper, and unless the arbitrator or the judge has all the facts, they cannot make a proper judgment about what is going on.⁷

Social media resists the trend towards anonymity by utilizing the conflict-sensitive approach to create awareness, reflection, and mindfulness, thus, prohibiting needless escalation. It decreases the risk of misinformation, thus, its collaboration with International and Regional Dispute Resolution will foster collaboration and connection across social and geographic separation with the introduction of new platforms and technologies. The privilege provided by social media to initiate audio or face-to-face communication whenever and wherever possible prohibits any kind of loss that could occur due to non-verbal information.⁸ This portrays the distinct role of social media in conflict management and social cohesion with the assistance of Dispute Resolution.

3. Creates a Transparent Environment: With the dissolution of conventional media, the rational, devoted, and professional broadcasting of court procedures is being replaced by the emergence of reporters who utilizes social media, that is, blogs and tweets to report the court proceedings.

⁶ Sheldon Himelfarb. Social Media and Conflict Prevention. United States Institute of Peace. December, 2012.

⁷ Harry S. Truman: 1945: containing the public messages, speeches, and statements of the president, April 12 to December 31, 1945.

⁸ How Technology and Media Shape My Experiences with (In)Civil Discourse. Poem by New York University Freshman Garcia, Aspen Institute's 2017 Youth & Engagement Programs' convening, Civil Discourse in a Fractured Age.

The New Media creates opportunities for independent and interactive communication by converting the passive audience into the active audience.⁹ It further advances various practical possibilities for the arbitrator to communicate with their staff and the users, presentation of evidence, and making the judgments accessible to the general audience with proper reasoning and rationale utilized behind pronouncing the judgment. The New Media further provides the platform to the public to critically analyze the judgment and offer fair criticism in the form of their opinion and thoughts.

The statement released by the Chief Justice of the Australian Supreme Court, Marilyn Warren, expressed¹⁰ that social media and the internet will be continuing for a long time. It is the duty of the court and arbitrators to originate an effective strategy to interconnect with the new technologies. Open justice is the need of the new technological era. Through this advancement, the communities will be able to access and view the court proceedings and other information related to it. New Media being tremendously interactive in nature, allows the public to participate in the debate which was not possible in the conventional media era. The judiciary and the arbitrator must adopt the new media technologies and has to participate in a direct dialogue with the community. It is the duty of the judiciary and the arbitrator to figure out a way to meet such expectations while simultaneously safeguard the fundamental aspects of law and order – judicial impartiality and fairness.

- 4. Elevates Community Outreach and Interaction:** Social media and other new media tools elevate community outreach and interaction and are being utilized to help uphold governments culpable for their acts, empower citizens, bring citizens together to oppose brutal violence, provide information and relevant data to reduce tensions and conflicts, coordinate relief attempts and other aided services, and build stronger bonds of understanding across countries. All these measures happen as social media provides new opportunities for interactive dialogue and public engagement and thus, creates transparent platforms for the State to exercise their duties which is undisguised to the citizens.

Social media gives the platform to the third party to fully participate in the court proceedings either by making written or oral statements, as

⁹ Dr. Pamela D Schulz, Dr. Andrew J Cannon. "Trial by Tweet? Findings on Facebook? Social Media Innovation or Degradation? The Future and Challenge of Change for Courts," *International Journal for Court Administration*, February 2013.

¹⁰ Remarks of the Hon. Marilyn Warren AC, Chief Justice of Victoria, Australia, on the occasion of the 2013 Redmond Barry Lecture on Open Justice in the Technological Age, 21 October 2013.

in today's world the third party, as well, has full access to the case file. The arbitral tribunal and the claimant will be in the position to question, cross-examine and review any kind of witness statements and the evidence that is put forward by the third party. The media have the authority to dissolve tensions before it reaches an uncontrollable point and critically watch the activities of government, society, and opposition. By distributing credible information and extending it to a gigantic audience, the New Media assist in promoting democratic principles, reconciliation, and societal development.

Social Media and sharing of videos associating with things like administration violence and the electoral hoax contribute to transparency and culpability and appear to contribute to new measures against such behavior. The very recent case that was observed in the United States which initiated the Black Lives Matter movement led to the participation of around 15 million to 26 million people in the United States.¹¹ Such enormous participation happened because of the circulation of the video which displayed the brutal behaviour of the police officer towards the citizen, George Floyd. With the assistance of social media, numerous people participated in the protest to acquire justice for the victim and to punish the police officer for arbitrary use of his powers.

Another example could be Tunisia and Egypt which proves that social media, a source of information and communication, has successfully correlated the new era technologies with the non-violent revolutions.¹²

5. Serves as a Peace-building Organization: A measure of peace-building can be intensified by the New Media. New Media attempt to reveal the causes behind a conflict and genuine objectives of the participants while making a point to acculturate all victims of the conflict. It does not attempt to abuse the misfortune and enduring yet ensure that the detailing is adjusted and show how effectively news can be controlled. Part of the New Media ethical guidelines is to bring out individuals that utilize peaceful techniques and denounce war and viciousness and document the anguish and misfortune of the victims. Potential resolution and attempting to avoid further hike of the conflict are the main focus of New Media, which is additionally considered as peace journalism. A proposed structure utilized by peace-building media association employing various techniques, for instance,

¹¹ Larry Buchanan, Quoc Trung Bui, and Jugal K. Patel. Black Lives Matter May be the Largest Movement in the U.S. History. *The New York Times*. July, 2020.

¹² Sean Aday, Henry Farrell, Marc Lynch, John Sides, Deen Freelon. *Blogs and Bullets II: New Media and Conflict after the Arab Spring*. United States Institute of Peace. July, 2012.

- Peace-promoting entertainment Media
- Conflict-sensitive and Peace Journalism
- Peace-promoting citizen media
- Media regulation to prohibit incitement of violence

Though the empirical evidence related to New Media is thin, it still holds positive anecdotal evidence that it can add to peace-building by improving information to avoid conflict and expanding contact and comprehension between opposing parties.¹³ For instance, Social Media has provided platforms to crowd-source information in stressed hotspots as a conflict avoidance process.¹⁴

In the same manner, Social Media work as a peace-building organization in Dispute Resolution by providing critical information to prevent conflict. This is particularly critical in the pre-formal or early phases of communication during the arbitration process when more traditional, strategic communication media have tended to be significantly more selective. Social media can enable arbitrators to communicate straightforwardly with a wide scope of audiences to accumulate a more extensive comprehension of various conflict narratives and potential parts focusing on peacemaking, which includes exceptionally difficult-to-reach zones. When applied cautiously, arbitrators can also utilize social media to counter misinformation and disinformation. Therefore, Social media's double-edged characteristics are crucial mostly in three key areas. They are: pre-formal or early stages of peacemaking; assisting information collection and critical analysis of conflict; framing of peace narratives; informing via online targeted engagement; fostering dialogues and molding arbitration agendas.

Impact of social media in dispute resolution: a bane

Social media is an extremely influential platform that can potentially mould opinion. At times, social media platforms create prejudice in the minds of the parties as well as the judges, the conciliators, and the mediators. The information as well as the misinformation that circulates in the social media or the social networking sites draws the attention of the parties and creates 'unconscious bias ' in their minds that gets reflected during the formal or informal proceedings. The spread of misinformation often results in the formation of a negative presumption in the minds of parties as well as the adjudicator. In such a scenario, with the overarching growth of social media, there is a high likelihood that even the adjudicator's verdict won't be free from biases and will be based on preconceived notions which will hamper the justice delivery system. Thus, social media and social networking sites

¹³ Oatley and R. Thapa (2012). Media, Youth and Conflict Prevention in Sierra Leone. IfP-EW: Brussels.

¹⁴ Michael L. Best. Peace building in a Networked World. Communications of the ACM. April, 2013.

not only intrude with the administration of justice but also undermine people's faith in alternative dispute resolution mechanisms. It is pertinent to note that citizens of the country have a constitutional right of a fair trial under Article 21 of the Constitution¹⁵ which gets impaired due to the influence of social media. One of the fundamental tenets of Democracy is transparency and fair play which when gets hampered brings the entire notion of democracy at stake.

The media at many times influences even the individuals involved in the conflict to reach a settlement and affect their bargaining power. The technique situated under influence of media can be said to have two potential effects:¹⁶ an individual or direct effect, and a Social or indirect effect. Be it a mediator or conciliator or arbitrator they are expected to take measures as a neutral third party who facilitates parties to the dispute to reach a mutually accepted consensus.¹⁷ However, with the intensified growth of social networking sites, there is a high possibility that even the adjudicator's verdict who is supposed to be a neutral party, will be accommodative of biases and will be based on preconceived notions which will impede people's confidence in alternative dispute resolution forums.

Critical analysis of social media' influence on the adjudicators: a threat to justice administration

Social media has now become an integral part of every individual's life with adjudicators being no exception as it enables easy and smooth communication and dissemination of information. It is undisputed that the usage of social media by the adjudicators can potentially enhance the public's understanding of the law, enable the users to exchange their views, and foster an environment of fairness and justice. On the contrary, the usage of social media has led to situations where the decisions given by the adjudicators were observed to be biased as they were subject to inappropriate outside influences. The overarching outreach of social media has inherent risk and challenges which highlight issues of ethics and integrity.¹⁸ In this digital era, the adjudicators need to be extremely vigilant and cautious while delivering judgments and should ensure that a particular verdict is not a result of preconceived opinions formed in the minds of the adjudicators which are irrelevant to the case.

¹⁵ *Rattiaran v. State of Madhya Pradesh*, AIR 2012 SC 1485.

¹⁶ *Ibid.*

¹⁷ Howard M. Rebach. *Mediation and Alternative Dispute Resolution*. Handbook of Clinical Sociology. Second Edition. Page 197-224.

¹⁸ Anurag Bana, Colette Allen. *Social Media and the Judiciary*. Bar and Bench. May, 2020.

In the words of our Union Law Minister, Ravi Shankar Prasad although social media is empowering but Judges must be left completely independent to give judgment as what they think is the correct mode in accordance with the rule of law.¹⁹

As per the Bangalore Principles of Judicial Conduct,²⁰ the adjudicators should always adhere to the principles of independence, impartiality, integrity, and propriety, but simultaneously should not be secluded from society and should make every effort to stimulate an environment of justice.

In alternative dispute resolution forums where the parties to a dispute come to a consensus with the help of arbitrator, mediator, or conciliator, their beforehand exposure to the public's viewpoint and sentiment towards a case can lead to the formation of "unconscious bias". Reflection of such opinions, which are an outcome of information and misinformation spread over the social networking sites, while delivering judgments will impede the process of justice delivery. As a consequence, the onus is on the adjudicators as well to refrain and restrict themselves from accessing information disseminated over social media concerning a particular case. The mediators, conciliators, and arbitrators should make certain that the usage of social media does not have an overall negative impact on the justice delivery process. It is always desirable that the adjudicators maintain social etiquette and limit their usage of social media to a certain extent in order to preserve the sanctity of sacrosanct institutions like courts of law.

The International Bar Association Legal Policy & Research Unit (IBA LPRU), in the year 2011 conducted a global survey pertaining to the impact of OSN i.e. Online Social Networking on the Legal Profession²¹ in which 61 Bar Associations from 47 jurisdictions including the Bar Council of India, responded. It was observed that only 15% of those who responded felt that the social networking sites affected the public image of the legal profession in a negative manner. Besides, 40% of the participants felt that the use of social networking sites undermines public's faith and confidence in adjudicatory systems and further affects judicial independence. Therefore, striking a balance between the positive impact of social media on the legal profession and the ill-effects of social media thereof is of utmost importance in this digital era where social media is influencing the legal profession with huge momentum.

¹⁹ Ibid.

²⁰ Bangalore Principles of Judicial Conduct 2002, available at: https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

²¹ Ibid.

Way forward: an approach to maintain ethical conduct and social etiquette

The United Nations Office on Drugs and Crime (UNODC) provides certain guidelines pertaining to the use of social media by the judges which even though are non-binding can aid to regulate ethical conduct and help the adjudicators to maintain social etiquette.²² The guidelines are in tandem with the international and regional standards of judicial conduct and ethics and cover the risks and opportunities in judges' awareness and social media, content and behavior on social media, the pros and cons of the use of social media and privacy and security policies.²³ Besides, the guidelines provide concomitant guidance and training frameworks.²⁴

With the rise in usage of Social media and the mushrooming growth of demand for live reporting, Lord Judge, The Lord Chief Justice of England and Wales issued guidelines for Court pertaining to the use of live text-based communications, such as mobile email, social media (including Twitter) and internet enabled laptops in and from courts throughout England and Wales.²⁵

The International Bar Association's International Principles on Social Media Conduct for the Legal profession promotes social media conduct within the legal profession that adheres to the relevant rules of professional responsibility as well as considerations of civility.²⁶ The IBA Principles as well as the UNODC Guidelines provide a framework to regulate and guide the adjudicators to maintain ethical conduct and social etiquette in order to preserve the sanctity and dignity of the legal profession. Therefore, these guidelines can be used to minimize ethical risks with the escalating influence of social media on the adjudicators. On that account, the guidelines can aid in preserving the public confidence in the integrity and impartiality of the alternative dispute resolution forums.

Conclusion

The development in the significance of social media requires a methodological change in the arbitration and dialogue process. Social Media plays reasonably a

²² Guidelines on the use of social media by judges, available at: https://www.unodc.org/res/ji/import/international_standards/social_media_guidelines/social_media_guidelines_final.pdf

²³ Ibid.

²⁴ Ibid.

²⁵ Practice Guidance: The Use Of Live Text-Based Forms Of Communication (Including Twitter) From Court For The Purposes Of Fair And Accurate Reporting, available at: <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/lbtc-guidance-dec-2011.pdf>

²⁶ The International Bar Association's International Principles on Social Media Conduct for the Legal profession. International Bar Association. May, 2014.

new role as a peace device which implies that associated risks are intense, thus precautionary steps are essential. Arbitrators and Mediators need to capitalize on the positive quality of social media while setting up risk-mitigation techniques to ensure the conflict prevention process. It is undeniable that the current social media trends have become an integral part of every individual's life. Even the judiciary and the other dispute resolution forums are not immune from this. Since there is no barrier, every person has the freedom to share their views on a global platform and spread information that might be inappropriate and incorrect at times, which can potentially cause havoc. Mediators and Arbitrators must be prepared in cybersecurity techniques to guarantee that their online interactions are not manipulated and the circulation of misinformation and disinformation can be prevented. They need to incorporate social media in the upcoming agenda planning and scenario development.

Social media has distinct potential to magnify peacemaking, which also includes the fragile beginning phases when space for communication is crushed and connections are developmental and exceptionally delicate. It has been modifying the collection and interpretation of data, empowering access to increasingly more granular data from various sources, thus, providing distinct avenues into peace conversation, shaping peace narrative, and conflict prevention by broadening participation. In a similar manner, the usage of social media by the adjudicators can potentially enhance the public's understanding of the law, enable the users to exchange their views, and foster an environment of fairness and justice.

On the contrary, the usage of social media has led to situations where the decisions given by the adjudicators were observed to be biased as they were subject to inappropriate outside influences. In alternative dispute resolution forums where the parties to a dispute come to a consensus with the help of arbitrator, mediator or conciliator, their beforehand exposure to the public's viewpoint and sentiment towards a case can lead to the formation of "unconscious bias". Reflection of such opinion, which are an outcome of information and misinformation spread over the social networking sites while delivering judgment will impede the process of justice delivery.

These obstacles were anticipated by many mediators and arbitrators which led to their participation in encouraging the establishment of a provisional code of conduct on the utilization of social media by the arbitrators. Guidelines issued by few countries scrutinize the way to minimize ethical risks with the escalating influence of social media on the adjudicators and aid in preserving the public confidence in the integrity and impartiality of the alternative dispute resolution forums. The objective of such guidelines is to set some essential standards for external communication between the parties having conflict and sustain a standard of confidentiality. The agreement provided in the code must establish trust among the arbitrators and conflict parties and promote confidence-building measures as

it would indicate the parties' commitment towards the process and the arbitrators' commitment towards delivering the fair judgment. Therefore, striking a balance between the positive impact of social media on the legal profession and the ill-effects of social media thereof is of utmost importance in this digital era where social media is influencing the legal profession with huge momentum.

Bibliographic references

Amelia Arsenault, Shawn Powers, "The Media Map Project: Review of Literature". November, 2010.

Anurag Bana, Colette Allen. Social Media and the Judiciary. Bar and Bench. May, 2020.

Av. Eni Cobani, Dr. Engjëllushe Zenelaj. Some of the Impact of Mediatization of Mediation Law Process. Academic Journal of Interdisciplinary Studies. July, 2018.

Bangalore Principles of Judicial Conduct 2002, available at: https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

Dr. Pamela D Schulz, Dr. Andrew J Cannon. "Trial by Tweet? Findings on Facebook? Social Media Innovation or Degradation? The Future and Challenge of Change for Courts," International Journal for Court Administration, February 2013.

Guidelines on the use of social media by judges, available at: https://www.unodc.org/res/ji/import/international_standards/social_media_guidelines/social_media_guidelines_final.pdf

Harry S. Truman: 1945: containing the public messages, speeches, and statements of the president, April 12 to December 31, 1945.

Howard M. Rebach. Mediation and Alternative Dispute Resolution. Handbook of Clinical Sociology. Second Edition. Page 197-224.

How Technology and Media Shape My Experiences with (In)Civil Discourse. Poem by New York University Freshman Garcia, Aspen Institute's 2017 Youth & Engagement Programs' convening, Civil Discourse in a Fractured Age.

Larry Buchanan, Quoc Trung Bui, and Jugal K. Patel. Black Lives Matter May be the Largest Movement in the U.S. History. The New York Times. July, 2020.

Michael L. Best. Peace building in a Networked World. Communications of the ACM. April, 2013.

"New Media and the Courts Reports/2010-2011-2012-2013," Conference of Court Public Information Officers; available at: <http://ccpio.org/publications/reports/>

Oatley and R. Thapa (2012). Media, Youth and Conflict Prevention in Sierra Leone. IfP-EW: Brussels.

Practice Guidance: The Use Of Live Text-Based Forms Of Communication (Including Twitter) From Court For The Purposes Of Fair And Accurate Reporting, available at: <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/ltbc-guidance-dec-2011.pdf>

Pratiyush Kumar, Kuljit Singh. Media, the Fourth Pillar of Democracy: A Critical Analysis. International Journal of Research and Analytical Reviews. March, 2019.

Rattiaran v. State of Madhya Pradesh, AIR 2012 SC 1485.

Remarks of the Hon. Marilyn Warren AC, Chief Justice of Victoria, Australia, on the occasion of the 2013 Redmond Barry Lecture on Open Justice in the Technological Age, 21 October 2013.

Sean Aday, Henry Farrell, Marc Lynch, John Sides, Deen Freelon. Blogs and Bullets II: New Media and Conflict after the Arab Spring. United States Institute of Peace. July, 2012.

Sheldon Himelfarb. *Social Media and Conflict Prevention*. United States Institute of Peace. December, 2012.

The International Bar Association's *International Principles on Social Media Conduct for the Legal profession*. International Bar Association. May, 2014.

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