



حوار أبوظبي بين الدول الآسيوية المرسلية و المستقبلة للعمالة  
Abu Dhabi Dialogue among the Asian Labor-Sending and Receiving Countries

**Research Topic:  
'Towards Effective Electronic and Online Dispute  
Resolution in the ADD Corridors'**

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responsible business

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## 1. Introduction

On 27 October 2021 in Dubai, the Ministers and Heads of Delegation adopted the Abu Dhabi Dialogue (ADD) Sixth Consultation Joint Declaration. Amongst other things, the Joint Declaration announced thematic priorities including:

***“the launch of a joint programme that explores.....enabling and improving access to justice for temporary contractual workers.....We recognise and endorse the important role that electronic systems and digital technology can play in enhancing ethical recruitment and the resolution of labour disputes between employers and employees through enabling remote access, reducing costs and facilitating multi-lingual usage; We call for a programme to share knowledge among Member States about the design principles for the effective management of electronic dispute resolution systems that enable equal access to redress, as well as lessons learned from ADD Member States and beyond” .***

The provisions of the Joint Declaration were informed by extensive research and consultation exercises undertaken in 2020 and 2021. Amongst other things, the research entailed review and analysis of: publications on the nature of migrant labour disputes; the existing mechanisms for effective dispute resolution in the ADD countries; gaps and challenges relating to access to justice and dispute resolution; and the evolution, availability and usage of electronic and online dispute resolution packages, platforms and services, globally and in ADD countries. The primary research entailed consultative discussions with senior officials from ADD sending and receiving countries, and representatives of international and migrant support organisations operating in the ADD countries.

The research exercise gathered information and analysed the input and proceedings of several stakeholder consultations held through UN-linked Regional Consultative Processes (RCP), ADD Senior Officials Meetings, and other civil society, thematic and expert meetings. The main findings, analytical observations and recommendations were documented in two thematic publications by the Global Forum on Migration and Development (GFMD) and the Abu Dhabi Dialogue (ADD) . These were also subjected to further discussions and analysis at relevant regional and global thematic forums. The action points needed for effective Online Dispute Resolution (ODR) system for migrant labour disputes was introduced and discussed at the ADD Senior Officials Meeting of 18-19 October 2022. The paper makes a recommendation for ADD to initiate a Migrant Labour ODR (MLODR) Programme, involving four champion counties, being two sending and two receiving countries.

<sup>1</sup>Joint Declaration of the Sixth Consultation Joint Declaration of the Abu Dhabi Dialogue – Accessed 27 Dec 2023

<http://abudhabidialogue.org.ae/sites/default/files/document->

[library/21\\_11\\_09%20ADD%20MC%20Joint%20Declaration%20for%20Circulation%20-%20final.pdf](http://abudhabidialogue.org.ae/sites/default/files/document-library/21_11_09%20ADD%20MC%20Joint%20Declaration%20for%20Circulation%20-%20final.pdf)



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## 1. Update on Research Findings and Analytical Observations

The key findings and analytical information gathered and published by the ADD Secretariat in 2021 about electronic and online dispute resolution are still valid, and the challenges and opportunities remain broadly unchanged. This paper provides an update on findings and analytical observations, and the practicalities of how to implement and actualise effective Migrant Labour Online Dispute Resolution platforms and services.

## 2. Electronic or Online Dispute Resolution

Review of published materials indicates that the terms Electronic Dispute Resolution and Online Dispute Resolution are both used widely, and sometimes interchangeably. It should be noted that strictly speaking, Electronic Dispute Resolution relates to the computerisation of all or the major stages of the dispute resolution processes. This is a much narrower package than Online Dispute Resolution (ODR). It is indeed the case that many dispute resolution services in different jurisdictions across the world, including the ADD countries have a high level on computerised or electronic processes. However, these are qualitatively different from ODR services with remote access and interactive functionalities.

Not all EDR are ODR, but all ODR platforms are by definition EDR systems, with the additional and distinctive features on internet empowered online and remote access and interactivity at every stage of the processes. The tech companies that provide these remote access packages refer to their products as Online Dispute Resolution (ODR) rather than electronic systems. As such, the 2021 ADD Sixth Ministerial Joint Declaration relating to “**...electronic dispute resolution systems that enable equal access to redress...**” is in essence referring to the remotely accessible comprehensive Online Dispute Resolution (ODR) systems, as described and stated in the consultative documents produced in the lead up to the ADD Sixth Ministerial Joint Declaration.

<sup>2</sup>Faal, Gibril. (2020), Roundtable Paper: Leveraging New Technologies to Empower Migrants, Global Forum on Migration and Development (GFMD), Geneva

<sup>3</sup>Faal, Gibril. (2021), Tele-Justice: Facilitating Workers' Access to Justice through Digital Tools, in 'Leveraging Advanced Technology to Improve Labour Mobility Governance' (pp48-59), Abu Dhabi Dialogue (ADD), Dubai

[http://abudhabidialogue.org.ae/sites/default/files/document-library/ADD%20-%20Research%20Papers\\_Theme%202.pdf](http://abudhabidialogue.org.ae/sites/default/files/document-library/ADD%20-%20Research%20Papers_Theme%202.pdf)



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## 2.2 - Sectoral Online Dispute Resolution (ODR)

Review of the operation of Online Dispute Resolution (ODR) systems across the world, including ADD countries indicates that these systems are applied on a sectoral or thematic basis, within the general framework of Alternative Dispute Resolution (ADR) practices . The most common form of ODR relates to consumer protection for online shopping and e-commerce transactions.

EBay operates an ODR system through its private sector partner, SqaureTrade. The eBay ODR seeks to resolve disputes remotely within 10 days, and charges a subsidised fee of US\$15 (as of December 2023) . Facebook and Instagram operate in-house ODR systems which seek to resolve disputes within 2 days and no fees are charged . Amazon in Europe used the Centre for Effective Dispute Resolution (CEDR) for its ODR. The subsidised fee can be as much as €270 and take up to 90 days . Amazon also referred complainants to the European ODR platform which strictly speaking was not an ODR platform but a portal listing the national ODR entities. Between 2016 and 2023, only 200 cases per year were handled through the portal, thus on 17 October 2023, the European Union issued an order to **“discontinue the European ODR Platform”** .

## 2.3 - Global Mainstreaming of ODR

Amongst the European Union member states, ODR is expanding from current concentration on e-commerce and specific sectoral disputes, to general civil disputes. In January 2024, the OECD published a case study report on how to develop ODR at a national level, including incorporating court proceedings (for small claims of a maximum of €2,500), onto ODR platforms .

In the United Kingdom, many of the commercial ADR service providers offer ODR as a standard service **“.....through a blend of online tools with a qualified mediator, using real-time confidential discussion rooms over a secure internet site.... suitable for disputes of all sizes and can accommodate any number of parties across any number of locations”<sup>10</sup>** . In 2021, CEDR in the UK received 22,000 resolution applications, issued 7,062 adjudications, and handled civil and commercial claims of £494 million<sup>11</sup> .

In the United States of America, there are major ODR corporations that resolve disputes worth hundreds of millions of dollars every year, and their ODR platforms are used by state and sub-state governments, public agencies and statutory institutions, trade and professional organisations and networks, and multinational corporations.

SqaureTrade (also branded as Allstate) which provides ODR for eBay states that its **“service takes place entirely on our website....Direct Negotiation offers the two parties an opportunity to resolve the problem on their own. If that doesn’t**



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***work, they can request the service of a professionally trained SquareTrade Mediator.....has a history of resolving disputes in both the online and offline worlds.....handles over 150,000 cases every year, with a 90% success rate for completed cases”<sup>12</sup> .***

Cybersettle which is one of the oldest commercial ODR platforms founded in 1996. By 2021, it had settled about 200,000 disputes worth about UD\$1.5 billion, and there are over 32,000 lawyers who actively use the ODR platform. The Modria ODR service is used by the American Arbitration Association (AAA), handling over 300,000 cases annually<sup>14</sup> .

China is the home of the Alibaba Group which is the largest e-commerce business in the world. ODR systems similar to the eBay ODR framework are fully integrated in the network of e-commerce platforms that serve over 1 billion users. The Chinese government on its part set up three Internet Courts in 2017 and 2018. By 2019, these e-courts had settled over 120,000 disputes. On 1 August 2021, the Supreme People’s Court introduced the ‘Rules of Online Litigation of the People’s Court of China (Rules)’<sup>15</sup> .

## **2.4 - Feasibility of ODR in ADD Corridors**

Most of the migrant and labour related disputes in the Abu Dhabi Dialogue (ADD) corridors involve migrant workers from the sending countries as complainants, and the employers in the receiving countries as respondents. As such, this research paper focuses on the feasibility of ODR in the ADD receiving countries, especially in the Gulf. These are the main jurisdictions for the resolution of the most common migrant labour disputes, and for the enforcement of orders and awards.

<sup>4</sup>Cortes, P (2011), What should the ideal ODR system for e-commerce consumers look like? The Hidden World of Consumer ADR: Redress and Behaviour, University of Leicester, Leicester [https://www.law.ox.ac.uk/sites/default/files/migrated/dr\\_pablo\\_cortes.pdf](https://www.law.ox.ac.uk/sites/default/files/migrated/dr_pablo_cortes.pdf)

<sup>5</sup>EBay Website: <https://pages.ebay.com/services/buyandsell/disputeres.html> – Accessed 27 Dec 2023

<sup>6</sup>[https://www.facebook.com/policies/purchase\\_protection/disputes\\_and\\_refunds?paipv=0&eav=AfYcSB5qt7SOBCVD4Dv6yR1VPYNS\\_P4rhoiLxtH-V5smqAPyJN-qSwTleDU78T5sR4nw&\\_rdr](https://www.facebook.com/policies/purchase_protection/disputes_and_refunds?paipv=0&eav=AfYcSB5qt7SOBCVD4Dv6yR1VPYNS_P4rhoiLxtH-V5smqAPyJN-qSwTleDU78T5sR4nw&_rdr) – Accessed 27 Dec 2023

<sup>7</sup>ODR Guide Article: Amazon Online Dispute Resolution: Here’s All You Need to Know – 27 Dec 2023 <https://odrguide.com/amazon-online-dispute-resolution-heres-all-you-need-to-know/#htoc-amazon-odr-in-the-european-union-and-the-united-kingdom>

<sup>8</sup>EU Website: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023PC0647> – Accessed 27 Dec 2023

<sup>9</sup>OECD (2024), Developing Effective Online Dispute Resolution in Latvia, OECD Publishing, Paris <https://doi.org/10.1787/75ef5c4c-en>

<sup>10</sup>ADR Group Website: Online Dispute Resolution (ODR) ([adrgroup.co.uk](http://adrgroup.co.uk)) – Accessed 27 Dec 2023

<sup>11</sup>CEDR Website: <https://www.cedr.com/> – 27 Dec 2023



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- I. **Pre-Covid ODR in ADD Receiving Countries:** Even in the pre-Covid period, consensus was emerging that ADD receiving countries were well placed to adopt and take a lead in ODR. In 2016, Microsoft stated that: *“justice systems around the world are moving away from legacy IT systems and paper-based procedures to embrace digital technologies....redefining the ways in which justice is delivered.....to be more efficient, fairer, and less expensive.....It is worth noting that commercial courts in countries such as Dubai and Qatar, which built a modern digital infrastructure from scratch, are in a stronger IT position than courts in places that are saddled with legacy systems”*<sup>16</sup>. These opportunities were harnessed and led to the development of ODR platforms and systems that were partly and fully online, covering administrative tribunals, mediation, arbitration and adjudication processes, as well as judicial e-Courts<sup>17</sup>. The feasibility of ODR in the ADD receiving countries was demonstrated in the pre-Covid, and its relevance and significance became pronounced during the pandemic restrictions. ODR is operationally practicable, and has the potential to yield transformative impact regarding access to justice for disadvantaged groups such as migrant workers.
- II. **Responses to ODR Challenges in ADD Countries:** Given that ODR is predominantly used for consumer and commercial disputes, relevant international organisations and multilateral institutions have undertaken research on how to expand the operation and usage of these platforms in order to enhance access to justice. The various studies have identified challenges and obstacles, and proposed recommendations for mitigation and ODR development. The structural ODR challenges relating to consumer protection and commercial disputes are also applicable to migrant labour disputes.

<sup>12</sup>SquareTrade Website – Accessed 19 Jan 2024

[https://www.squaretrade.com/merchant/pop/fees\\_effective\\_odr.html#:~:text=Square Trade's%20ODR%20service%20takes%20place,a%20professionally%20trained%20Square Trade%20Mediator](https://www.squaretrade.com/merchant/pop/fees_effective_odr.html#:~:text=Square Trade's%20ODR%20service%20takes%20place,a%20professionally%20trained%20Square Trade%20Mediator)

<sup>13</sup>Business Article: Cybersettle: Revolutionizing the Landscape of Financial Negotiation and Settlement –

<https://www.startuptofollow.com/articles> – Accessed 19 Jan 2024

<sup>14</sup>Ballesteros, Teresa (2021), International Perspectives on Online Dispute Resolution in the E-Commerce Landscape; *International Journal on Online Dispute Resolution*, Vol (8) 2, 2021, 85-101

<sup>15</sup> ibid

<sup>16</sup>Microsoft Article; 30 October 2016: 'How Digital Justice Is Transforming the Justice System': <https://news.microsoft.com/en-xm/2016/10/30/how-digital-justice-is-transforming-the-justice-system/> – Accessed 19 Jan 2024

<sup>17</sup>Faal, Gibril. (2021), Tele-Justice: Facilitating Workers' Access to Justice through Digital Tools, in 'Leveraging Advanced Technology to Improve Labour Mobility Governance' (pp48-59), Abu Dhabi Dialogue (ADD), Dubai



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A 2023 United Nations study stated that: **“One major challenge for many countries is the lack of technological expertise and the necessary budget for implementing state-of-the-art ODR systems. In addition, some countries may also lack the legal framework necessary for the effective implementation of these technologies”**<sup>18</sup>. As demonstrated in the pre-Covid period the ADD receiving countries have access to the ODR technological resources and expertise, and have versatile legal frameworks to make ODR feasible and effective. A 2021 study found that in the Gulf countries, **“the courts and ADR centers were largely ‘pandemic ready’ before the pandemic. Some institutions have either been designed specifically to deliver services remotely, or instituted technology prior to the pandemic that could be upscaled rapidly. Others have responded quickly to implement technology to provide hearings remotely. In the background, institutional rules, practice directions, and regional legislation had already mandated and encouraged the use of technology. This pre-emption of the proliferation of technology has highlighted a regional nimbleness that other parts of the world have struggled to replicate as efficiently**<sup>19</sup>.

**III. Professionalization of ODR:** Since the mid 1990s, ODR has evolved through innovation, application and professionalization. The technological advances of the ODR platforms are complemented by amongst other things: a growing body of academic and practice-based research; the development of international standards, guidance and training; emergence of professional networks and forums; enactment of national laws and regulations; and formulation of regional and sectoral collaborative frameworks. This professionalization has the effect of standardising practices, creating a global community of practitioners and experts, facilitating access to both technology and expertise, improving general ODR effectiveness and efficiency, and expanding and enhancing ODR adoption and operations, thereby maximising access to justice. The National Center for Technology and Dispute Resolution (NCTDR) was established in 1998 at the University of Massachusetts. In 1999 it ran an ODR proof of concept pilot project for eBay, which led to the establishment of the eBay ODR platform in 2010, handling over sixty million disputes each year. NCTDR’s activities on ODR professionalization include: collation and publication of professional briefings, working papers and research reports on a monthly basis; provision of technical resources including lists of ODR service providers across the world and ODR training materials.

There is an annual International ODR Forum which was initiated in 2002 as the United Nations Forum on Online Dispute Resolution. The 2011 and 2023 ODR forums were hosted by India, an ADD sending country. The International Journal of Online Dispute Resolution was launched in 2014<sup>21</sup>, and the latest bibliography on ODR is 70 pages long, demonstrating the growth in research in the field<sup>22</sup>.



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**IV. Standards of ODR Practice for ADD Countries:** SiThe 2021 ADD paper on ODR for migrant workers stated that: **“As always, disadvantaged groups such as low-income migrant workers bear the brunt of the negative effects and exclusion that arise from strained judicial systems. The tech-based digital solutions have in-built potential to enhance the delivery of justice through improved accessibility, affordability, speed and fairness of judicial services”**<sup>23</sup>. Beyond the technology and national juridical procedures and regulations, ethical professional standards of practice are needed to ensure fair and enduring access to justice for disadvantaged groups. For ODR as in other sectors, these professional principles and practice standards and guidelines already exist and are constantly evolving<sup>24</sup>. The independent ODR Standard was first issued in 2009 by NCTDR, revised to incorporate ethical principles in 2017, and updated after the Covid19 pandemic in May 2022. The standard is issued by the International Council for Online Dispute Resolution (ICODR), which **“drives the development, convergence, and adoption of open standards for the global effort to resolve disputes and conflicts using information and communications technology..... ICODR promotes worldwide standards for all forms of technology-assisted dispute resolution, including diagnosis, negotiation, mediation, arbitration and courts. ICODR’s open standards offer the potential to lower cost, stimulate innovation, protect consumers and citizens, and protect the right of free access to justice”**<sup>25</sup>. The existing sets of ODR standards and guidelines are relevant and applicable to ODR for migrant labour disputes in the ADD corridors.

### **3. Implementation of Migrant Labour ODR for in ADD Corridors**

The 2021 ADD paper on ODR for migrant workers stated that:

**“ODR technology, with its multi-language, remote access and affordability features can improve access to justice for migrant workers. Migrants can lodge and pursue claims even if they are outside the country. It also increases their options to get specialist, legal aid and pro bono technical and legal assistance from diverse institutions and organisations,**

<sup>18</sup> UNCTAD (2023), *Technology and the Future of Online Dispute Resolution (ODR) Platforms for Consumer Protection Agencies*, United Nations Conference on Trade and Development (UNCTAD), Geneva

<sup>19</sup> Calo, Zachary and Solaiman, Barry (2021), *Alternative Dispute Revolution: Technology and ADR in the Middle East Following the COVID-19 Pandemic*; John Marshall Law Journal, Vol. XIV, No. 2, 2021, 57-73

<sup>20</sup> NCTDR Website: <https://odr.info/> – Accessed 27 Dec 2023





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***as these professionals also need not be physically present at a given location.....Technology can be used to provide amongst other things: approved translations and audio-visual options of information, guidance, procedures and forms relating to access to justice;***

There is a robust and credible body of knowledge regarding the access to justice needs of migrant workers, and the features and functionalities required for effective Migrant Labour ODR systems and platforms. A 2021 study by ILO found that the three main ODR challenges relating to labour disputes are: inadequate ODR infrastructure; inadequate public investment, and **“lack of access to technological tools on the side of workers and their representatives”**<sup>26</sup>. The ADD receiving countries have the resources to invest in the appropriate ODR infrastructure, and many of these countries have already made significant investments in the digitalisation of the justice sector. The action points needed to actualise effective Migrant Labour ODR systems need to pay particular attention to the third implementation challenge of migrant access to tech resources. This challenge reflects the fact that a digital divide exists, and disadvantaged groups do not often have full access to the benefits of available and emerging technologies.

### **3.1 Building on the Current ODR Capacities in ADD Receiving Countries**

When lockdowns and other restrictions were introduced in March 2020 in response to the Covid19 pandemic, the Society for Computers and Law launched a project to monitor how different countries and jurisdictions use information and communication technology to manage judicial systems and deliver justice. The project led to the development of a portal which compiles data on ODR systems and e-courts in about 170 countries<sup>27</sup>.

<sup>21</sup>Journal Website: <https://www.elevenjournals.com/tijdschrift/ijodr/detail> – Accessed 27 Dec 2023

<sup>22</sup>NCTDR (2024), Online Dispute Resolution Bibliography, National Center for Technology and Dispute Resolution, Amherst

<https://drive.google.com/file/d/11N-aWX3hxMj1EUoWSegXTB7ka8xpOaG/view> – Accessed 2 Feb 2024

<sup>23</sup>Faal, Gibril. (2021), Tele-Justice: Facilitating Workers’ Access to Justice through Digital Tools, in ‘Leveraging Advanced Technology to Improve Labour Mobility Governance’ (pp48-59), Abu Dhabi Dialogue (ADD), Dubai

<sup>24</sup>NCTDR Website: <https://odr.info/standards/> – Accessed 27 Dec 2023

<sup>25</sup>ICODR Website: <https://icodr.org/files/english.pdf> – Accessed 27 Dec 2023



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Review and analysis of the Remote Courts Worldwide portal and other relevant national online sources indicates that all the ADD countries have some form of online and/or remote access, relating to aspects of the justice and dispute resolution processes. However, there is significant disparity between the different countries. Many countries have elements of electronic and digital processing for parts of the system and some degree of remote filing and access. Other countries have incorporated videoconferencing and online meeting systems in their court and tribunal systems.

In the pre-Covid19 period, some researchers identified potential hurdles to the adoption of ODR in the Gulf countries. For example, a 2019 paper examining ODR in Saudi Arabia highlighted challenges regarding the Shari'a legal framework, ODR regulations, legitimacy and levels of awareness. The uptake of ODR in Saudi Arabia and Malaysia during the pandemic demonstrated the fact that the challenges can be addressed adequately<sup>28</sup>. A 2021 study of ODR in the Gulf countries stated that:

***“ODR has been embraced because many of the institutions were early adopters of technology. They employed online services before the pandemic made such considerations a matter of exigency. The widespread use of online dispute resolution within the region reflects the fact that many institutions are new, often less than a decade old....Online delivery of services was adopted from their inception. As such, these institutions proved particularly nimble in responding to disruptions brought by the pandemic. Rather than provoking change, the pandemic provided an occasion for these regional institutions to further bolster their reputation for being nimble, entrepreneurial, and technologically sophisticated..... [Qatar International Center for Conciliation and Arbitration] quickly adopted to the new circumstances and was able to conduct 80% of its arbitration cases between April-December 2020 online....The Saudi Center for Commercial Arbitration developed one of the most innovative responses to the pandemic in launching its COVID-19 Emergency Mediation Program (EMP), which allows parties to engage in fully remote virtual mediation in which the settlement agreement can be converted into a bond enforceable in Saudi courts. Such initiatives display not only an adaptability towards the use of technology but other innovative mechanisms that facilitate dispute settlement”<sup>29</sup>.***

<sup>26</sup>ILO (2021), Report on the Rapid Assessment Survey: The Response of Labour Dispute Resolution Mechanisms to the COVID-19 Pandemic, International Labour Organization (ILO), Geneva

<sup>27</sup>Remote Courts Worldwide Website: <https://remotecourts.org/> – Accessed 27 Dec 2023

<sup>28</sup>Alharbi, Mohammad (2019), Key Challenges facing Online Dispute Resolution in Saudi Arabia; *Journal of Law, Policy and Globalization*, Vol.88, 2019, 76-85

[https://www.researchgate.net/publication/341078599\\_Key\\_Challenges\\_facing\\_Online\\_Dispute\\_Resolution\\_in\\_Saudi\\_Arabia](https://www.researchgate.net/publication/341078599_Key_Challenges_facing_Online_Dispute_Resolution_in_Saudi_Arabia)



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All the seven ADD receiving countries have in general been operating ODR, e-litigation and remote e-courts as part of strategic digitalisation and e-government programmes. In Malaysia, e-court systems were introduced as long ago as 2011<sup>30</sup> , and ODR is offered commercially for arbitration and mediation services<sup>31</sup> . Since the pandemic, virtual courts are being normalised in Malaysia. In January 2023, the Chief Justice was quoted as saying that ***“the advent of online hearings is not merely a means to cope with the pandemic but a permanent feature of our justice system. There is, therefore, no question of reverting.....There is no room for dispute as to the propriety of the method, given that this shift is not unique to Malaysia”***<sup>32</sup> .

Between June 2021 and August 2021, ILO interviewed 113 institutions in 84 countries about labour disputes during the pandemic. Nine ADD countries were part of the survey, including two receiving countries, namely Malaysia and Saudi Arabia. Both countries provided online tools and platforms to facilitate full online hearings of labour dispute cases, with the participation of witnesses, investigators and representative of migrant workers. In Saudi Arabia, mobile phone text messages (SMS) were also used to send out invitations for conciliation and mediation sessions<sup>33</sup> .

Although these online systems and platforms are not dedicated to migrant labour disputes, as indicated above, their existence and operation demonstrates the feasibility of standalone Migrant Labour Online Dispute Resolution (MLODR) systems. In the post pandemic period, the application of ODR is already being extended, with groundbreaking initiatives on labour related ODR. The Remote Litigation Service of the Dubai Labour Court can be used for small claims . Furthermore, a pioneering virtual court dedicated entirely to labour disputes was launched in September 2023 in the Jebel Ali Free Zone (Jafza) in Dubai. It is accessible to 8,500 companies and 130,000 registered in the free zone. The Head of the Dubai Labour Court was quoted saying that:

***“Establishing a Virtual Court.....is a major step in developing the judicial system. This supports our ongoing efforts to meet the requirements of the rapidly changing world, thus complementing the existing integrated judicial service system. It will give workers access to justice, also protecting their rights, which are guaranteed by law. The new system also ensures comprehensive access to services and prompt judicial justice, in line with Dubai Courts’ vision to become a pioneering and internationally distinguished court”*** .



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### 3.2 - ADD Countries Being Global Leaders on Migrant Labour ODR

The Gulf Cooperation Council (GCC) countries continue to host the highest proportion of global migrant workers, whilst Malaysia also continues to be a major destination for migrant workers. According to the 2022 World Migration Report (WMR), in 2020, the top 20 international migration country-to-country corridors featured 10 ADD countries (namely, Afghanistan, Bangladesh, China, India, Indonesia, Pakistan, Philippines, Saudi Arabia, Thailand and United Arab Emirates). In 2019 and 2020, of the top 10 countries with the highest outflows of remittances in Asia, seven were ADD countries (namely, UAE, Saudi Arabia, China, Qatar, Malaysia, Thailand and India); and of the top 10 countries with the highest inflows of remittances in Asia, nine were ADD countries (namely, India, China, Philippines, Pakistan, Bangladesh, Vietnam, Indonesia, Nepal and Thailand)<sup>36</sup>.

***Acknowledging that the highest concentration of temporary labour migration in the world is in the Abu Dhabi Dialogue countries; Pursuant of the ADD commitment to facilitating safe, orderly and regular temporary labour migration; Consistent with the ADD three pillars of effective governance guide for programmes; Building on the 2020-23 ADD research and consultations on leveraging technology to improve migrant welfare; it is recommended that the Abu Dhabi Dialogue initiate a programme to establish and operate a Migrant Labour Online Dispute Resolution (ODR) platform, focussing on the most common forms of migrant labour disputes, using state-of-the-art ODR technology, and applying the highest ODR professional and ethical standards.***

<sup>29</sup>Calo, Zachary and Solaiman, Barry (2021), Alternative Dispute Revolution: Technology and ADR in the Middle East Following the COVID-19 Pandemic; *John Marshall Law Journal*, Vol. XIV, No. 2, 2021, 57-73

<sup>30</sup>Ariff Abd Ghadas, Zuhairah and Adawiyah Mohd Ariffin, Rabiatul (2019), E-Court System in the Civil and Shariah Courts: Malaysia Perspectives, Universiti Sultan Zainal Abidin, Kuala Terengganu <https://www.uctati.edu.my/assets/files/ICTM19-Papers/ICTM-70.pdf> – Accessed 27 Dec 2023

<sup>31</sup>APEC (2023), APEC Workshop on Enhancing Implementation of Online Dispute Resolution (ODR) through the APEC ODR Collaborative Framework and Other Fora Including Courts, Singapore, Asia-Pacific Economic Cooperation Secretariat

<sup>32</sup>Newspaper Article: Virtual hearings to stay as part of new normal, says chief justice – 14 Jan 2022 <https://www.freemalaysiatoday.com/category/nation/2022/01/14/virtual-hearings-to-stay-as-part-of-new-normal-says-chief-justice/> – Accessed 27 Dec 2023

<sup>33</sup>ILO (2021), Report on the Rapid Assessment Survey: The Response of Labour Dispute Resolution Mechanisms to the COVID-19 Pandemic, International Labour Organization (ILO), Geneva

<sup>33</sup>Company Website: <https://connectresources.ae/labour-court-dubai> – Accessed 19 Jan 2024



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The ADD countries are best placed to take global leadership in the use of ODR for migrant labour disputes. The positive impacts of Migrant Labour ODR include:

- I. Effective, efficient, versatile, fast, affordable, equitable resolution of disputes, and provision of fair and appropriate redress to mainly low-income workers with relatively low bargaining power, economic disadvantages and socio-legal vulnerabilities.
- II. Provision of structural and institutionalised solutions to address the known challenges and abuses specifically associated with temporary labour migration, thereby expanding and enhancing access to justice, whilst reducing and preventing injustice in the sector, with the potential for transformative positive outputs and outcomes.
- III. Strengthening the positive cooperation between sending and receiving countries of the ADD corridors, whilst implementing aspects of the Sustainable Development Goals (SDGs), the Global Compact for Safe, Orderly and Regular Migration (GCM), the Colombo Process, and other regional and multilateral agreements, protocols, policies and frameworks.
- IV. Leveraging the existing ODR experience and resources within ADD countries and globally, and actualising ADD's three pillars for programme governance, namely: ensuring the protection of migrant workers; empowering workers to fulfil their goals and aspirations; and affording workers the opportunity to benefit equitably from the outcomes of temporary labour migration.
- V. Provision of global leadership through the innovation, expansion and harnessing of the benefits of ODR beyond the sectors of consumer protection, commercial law, intellectual property and family dispute, to benefit millions of migrant workers in the ADD corridors and beyond.

### **3.3 - Conclusion: Action Points for Implementing Migrant Labour ODR in ADD Corridors**

The Abu Dhabi Dialogue commissioned and managed a series of research and consultation exercises between 2020 and 2023 on the theme of leveraging technology to improve migrant welfare. Building on the previous findings, recommendations and resolutions, this report provides updated research findings and technical observations about Online Dispute Resolution (ODR) for migrant labour disputes in the ADD corridors. The report also makes a major recommendation for the initiation of an ADD programme on Migrant Labour ODR (MLODR). In order to implement this recommendation, a number of action points need to be undertaken, including those summarised below. These action points focus on the practicalities of translating research findings and practicable recommendations into operational reality.

- I. Within the protocols and consultative processes, a formal decision to be made by ADD, for the initiation of a three-year programme for the implementation of a 'Migrant Labour Online Dispute Resolution (MLODR) Platform', involving at least four champion countries, two being GCC receiving countries and two being Asian sending countries.



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- II. With coordination support from the ADD Secretariat, the MLODR champion countries to: provide policy leadership; support for the mobilisation of the required financial and policy resources; produce MLODR Programme Terms of Reference with budgets and timelines; oversee the identification and deployment of a Programme Coordinator as appropriate, to provide technical and implementation leadership; oversee and support the general implementation of the MLODR Programme, in line with the ADD three pillars of effective governance of ADD programmes.
- III. Programme implementation to incorporate consultations, awareness-raising and capacity development for public sector institutions, civil society and migrant support organisations, and individual migrant workers about how to access and optimise usage of MLODR resources and services; and to undertake engagements regionally and globally to raise awareness about how ADD countries innovate and leverage ODR for migrant labour disputes, using frameworks and programmes that can be replicated in different corridors and jurisdictions across the world.
- IV. Programme partnership with institutions and organisations in MLODR champion countries including: entities that operate ODR platforms irrespective of thematic focus; relevant labour dispute resolution institutions such as courts and tribunals; arbitration, mediation and conciliation bodies; migrant support organisations such as international, civil society, migrant and diaspora organisations; relevant professional networks such as legal and dispute resolution associations, employer networks and trade unions.
- V. Technological partnership with leading and reputable tech companies, for the design, development and commissioning of a state-of-the-art MLODR platform, incorporating Blockchain, Artificial Intelligence, Chatbots and other forms of new technology as appropriate; with versatile modular format to facilitate regular upgrades as appropriate, and the addition and on-boarding of diverse labour dispute processes and systems from the different ADD countries and jurisdictions.
- VI. Technical partnership with global institutions that promote professional and ethical standards in ODR policy and programmes; foster good practices and continuous improvements in ODR operations; undertake pure and applied research, stakeholder consultations, practitioner training and other forms of capacity development.

<sup>35</sup> JAFZA Press Statement: <https://www.jafza.ae/media-centre/news/jafza-and-dubai-courts-launch-the-1st-virtual-court-in-the-middle-east-to-handle-labour-litigations/> – Accessed 27 Dec 2023

<sup>36</sup> IOM (2022), *World Migration Report*, International Organization for Migration (IOM), Geneva  
See page 27 for the data on country-to-country corridors and page 78 for the data on remittances