



## 'Digital family justice - from alternative dispute resolution to online dispute resolution?'

edited by Mavis Maclean and Bregjie Dijksterhuis. Imprint by Hart Publishing – First published in Great Britain 2019 – ISBN 9781509928521, Series Oñati International Series in Law and Society; Extent 256 pp., Online price \$ 56,75 (Hardcover)

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To cite this article: Giselle Beran Medella D'Almeida (2021): 'Digital family justice - from alternative dispute resolution to online dispute resolution?', Journal of Social Welfare and Family Law, DOI: [10.1080/09649069.2021.1917706](https://doi.org/10.1080/09649069.2021.1917706)

To link to this article: <https://doi.org/10.1080/09649069.2021.1917706>



Published online: 23 Apr 2021.



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## BOOK REVIEW

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This book is edited by Mavis Maclean and Bregje Dijksterhuis, two distinguished academics, from Oxford University and Molengraaff Institute of Private Law respectively. It follows on from an Oñati Workshop in Digital Family Justice held in April 2018 and brings together a compilation of thirteen papers written by twenty one experts in family justice and alternative and online dispute resolution from a range of jurisdictions. This provides the reader with an international overview of new developments in the field of alternative and online dispute resolution relevant to family justice issues, whilst focusing on the movement towards new digital systems for support with family legal matters.

The individual chapters enable readers to question whether alternative dispute resolution has improved access to justice with each chapter considering the different ways that individuals and the State approach family conflicts. Furthermore, it makes a careful study of the growing trend of online dispute resolution, and considers its future consequences. Each chapter reflects the context of what is happening regarding alternative dispute resolution and/or online dispute resolution with a narrative that provides the reader with a thorough understanding of developments.

The book is organised into three parts. The first six chapters present the political and professional contexts to be addressed. The second, over four chapters, shows the development of family justice. The third and final part containing three chapters indicates the potential ways ahead.

On the basis that new technology, which affects all areas of life, will also affect family justice, the authors provide a comprehensive, up-to date and international narrative which analyses alternative dispute resolution, the digitalisation of justice and the creation and implementation of online platforms in an attempt to provide individual with access to justice. On the one hand, this global perspective suggests that alternative dispute resolution has not achieved the goal of promoting access to justice in countries like Germany, Spain and France for example. On the other hand, it shows the ongoing digitalisation of family justice systems, with the Netherlands, England and Wales as pioneer countries in the implementation of self-help services with regard to family issues.

In Bregje Dijksterhuis's chapter about the Netherlands, she outlines how the government has supported digital developments and created an interactive website, which helps people to use digital self-help tools. The aim of the platform, [www.rechetwijzer.nl](http://www.rechetwijzer.nl), has been to enable divorcing parties to do more for themselves and to work towards a harmonious divorce. Whilst the Netherlands online divorce self-help platform is pioneering, it has not been used as expected. Although it has positive elements, such as providing low cost access to justice and helping people to find the best solution to their case, it has proved to be financially unsustainable. Furthermore, Dijksterhuis outlines other problems such as the resistance to its use by traditional

institutions, the lack of attention to the needs of the individual and the difficulties of the on line platform for high-conflict divorces as the platform requires dialogue and cooperation between partners.

Nevertheless, the model has inspired similar proposals in jurisdictions such as Canada, England and Wales. It also shows the advantage of using technology to support the administration of courts and to help parties to find information, but it also shows that technology does not replace personalised help, when it proves to be necessary.

The book also provides an interesting comparison of the approaches in England and Wales and their nearest neighbour, Scotland. The book draws out the different paths that have been taken to family justice within the constituent parts of the United Kingdom. It emphasises that, while in England, the decision to reduce the cost of lawyers created the need to develop online justice, in Scotland lawyers remain reasonably accessible and the reforms aim towards the modernisation of family justice, which still follows a court-based dispute model.

The edited collection is also notable for its emphasis on how the values of society and the political structure of the country are decisive in the development (or not) of alternative or online dispute resolution. In Poland, for example, e-courts are not used for family matters due to the ideological reluctance to ease access to divorce, as the government is focused on upholding traditional family issues. Whereas in Turkey, the family is seen as a space for social and political intervention. Verda Irtis suggests that here, there is a clear interference by the State and religion in processes related to family issues, which is illustrated by the existence of a 'Family and Religious Guidance Office', which aims to maintain and strengthen the traditional family and considers divorce a danger to be avoided. She also suggests that Turkish Family Courts could provide more specialised treatment to family issues. Irtis argues the tendency to protect the family, the pressure to reach an amicable settlement and the coexistence of competing norms shows that the family in Turkey is under pressure.

Drawn together, the chapters emphasise the global phenomenon of alternative dispute resolution in family matters being replaced by digital resolution of disputes in an attempt to increase and to democratise access to justice for citizens. It also highlights the growth of E-Courts, the use of digital information, websites, social media, emails, intranets, audioconferencing and videoconferencing at a meteoric speed, with mistakes, successes and challenges to be faced. The phenomenon is observed internationally, with the need to produce faster and cheaper justice, particularly regarding family matters, since the costs of traditional justice are an obstacle to the inclusion of the citizen in the traditional justice system.

The book also demonstrates the positive side of online justice and in particular how it can inform duties and rights. However, it also demonstrates how self-access to legal service can be dangerous for vulnerable men, woman and children involved in family difficulties, how it can increase inequality between parties and how the move to online justice may have a limited reach in solving all family problems.

Providing a critical, but not pessimistic perspective of both alternative and online dispute resolution, this work provides a unique perspective on this theme, and is an essential read for those looking for a transnational comparison of the subject. Although its main focus is North America, Australia and Europe, with some references worldwide, issues addressed by the authors are of global interest, enabling the reader to reflect deeply on this subject.

I recommend this book to anyone who has an interest in the subject. It is required reading, both in providing a panoramic view of the evolution of alternative and online dispute resolution across jurisdictions, as well as a considered critique of its limits and possibilities.

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<https://doi.org/10.1080/09649069.2021.1917706>

