

john.zeleznikow

Should online dispute resolution processes play a greater role in helping people to resolve family law matters in Australia? If so, how can these processes be best supported, and what safeguards should be incorporated into their development?

Professor John Zeleznikow

I have been working on the use of Information Technology to support decision making by separating Australian parents since 1992. I have built solutions before the word Online Dispute Resolution was even contemplated. I won a New Inventors prize for our Software. Our technology was used on the divorce of Prince Charles and Lady Di. I won an Australian Research Council Grant (as well as many others) to work with Relationships Australia Queensland on an Australian Online Family Dispute Resolution System. Currently I am working on a project with Relationships Australia Victoria on the use and abuse of ICT by separating parents.

The major systems I have built are Split-Up which advises upon property distribution following relationship breakdown and Family Winner which assists parties in a mediation to engage in trade-offs. The work on trade-offs has been extended to investigate possible resolution of the Israeli-Palestinian dispute. These systems provide an ability for disputants and mediators to conduct hypotheticals to better understand potential outcomes.

Significant publications include

Augar, N. and Zeleznikow, J. 2014 Developing Online Support and Counseling to enhance Family Dispute Resolution in Australia. *Group Decision and Negotiation*, Volume 23, [Issue 3](#), pp 515-532

Bellucci, Emilia and John Zeleznikow: 2006, Developing Negotiation Decision Support Systems that support mediators: a case study of the Family_Winner system, *Journal of Artificial Intelligence and Law*, 13(2): 233-271.

Condliffe, P. and Zeleznikow, J. 2014. What process do disputants want? An experiment in disputant preferences. *Monash University Law Review* 40(2): 305-339.

Ebner, Noam and Zeleznikow, John (2016), "No Sheriff in Town: Governance for the ODR Field" *Negotiation Journal* 32(4):297-323

Lodder, A. and Zeleznikow, J. 2005. Developing an Online Dispute Resolution Environment: Dialogue Tools and Negotiation Systems in a Three Step Model. *The Harvard Negotiation Law Review*. Vol. 10:287-338.

Lodder, A. and Zeleznikow, J. 2010. *Enhanced Dispute Resolution through the use of Information Technology*. Cambridge University Press, Cambridge, United Kingdom.

Praver, N., Ainsworth, N. and Zeleznikow, J. 2014. An Introduction to the Challenges and Possibilities of Faith-Based Arbitration in Australia. *Australasian Dispute Resolution Journal*. 25(2):91-99.

Stranieri, A., Zeleznikow, J., Gawler, M. and Lewis, B. 1999. A hybrid—neural approach to the automation of legal reasoning in the discretionary domain of family law in Australia. *Artificial Intelligence and Law* 7(2-3):153-183.

Zeleznikow, J. 2002. Using Web-based Legal Decision Support Systems to Improve Access to Justice *Information and Communications Technology Law*, 11(1): 15-33.

Zeleznikow, J. 2011. Methods for incorporating Fairness into Development of an Online Family Dispute Resolution Environment. *Australasian Dispute Resolution Journal*, 22:16-21.

Zeleznikow, J. 2014. Comparing the Israel – Palestinian dispute to Australian Family Mediation. *Group Decision and Negotiation Journal*. 23(6):1301–1317.

Zeleznikow, J., 2017. Can Artificial Intelligence and Online Dispute Resolution enhance efficiency and effectiveness in Courts. *International Journal for Court Administration*, 8(2).

Zeleznikow, L. and Zeleznikow, J.,2015. Supporting blended families to remain intact – a case study. *Journal of Divorce and Remarriage*, 56(4)317-335.

Recently, I have examined the issue as to whether potential litigants can receive useful support from intelligent ODR systems. Self-represented litigants (SRL's) benefit not only from obtaining useful advice, but also becoming better educated about the procedures and potential outcomes for issues in dispute.

Most ODR systems provide exactly one of either BATNA advice, support for trade-offs and facilitated communication. A truly useful ODR system should be a hybrid of all three approaches. Further, ODR should not be fully automated. As well as providing opportunities for communication, such systems should advise users of the relevant law, potential solutions and relevant trade-offs.

These tools might be videos, relevant papers and books, past cases and links to useful websites. They can also be very useful in triaging disputes (eg, immediately sending a case of domestic violence to court rather than allowing the parties to prolong physically acrimonious disputes) and act as a source of information collection (there is no need to expend a court official's time recording demographic data).

Those ODR systems that have been successful, have generally been transactional. A dispute which involves money and legal details is more likely to be resolvable online, rather than one which requires relationships to be improved before resolution is feasible. So when we provide support for family and parenting disputes, we provide advice about BATNAs and potential outcomes, rather than investigating emotions. Arno Lodder and I did advocate having advanced communications as one of our three steps in constructing intelligent ODR systems. However research over the past decade has shown this is not really feasible.

So intelligent advice can be very useful in

- a. Having clients know what is their BATNA;
- b. Reality testing;
- c. Conducting simulations;
- d. Providing a roadmap.

NO CURRENT FAMILY ODR SYSTEMS PROVIDE SUCH SUPPORT. There are a multitude of online family dispute resolution systems that provide limited support. Through the suggestions made above, I believe Online Dispute Resolution can help reduce the scope, cost and time taken to resolve parental and property disputes.