

Miscellaneous

Recension about Marta Gonzalo Quiroga; Yoruany Suñez Tejera. Innovación y resolución de conflictos: la intersección entre las nuevas tecnologías, la inteligencia artificial y los métodos alternativos. ONBC Editions. ISBN 978-959-7261-81-0



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ABSTRACT:

This paper reviews and summarizes the monograph by Dr. Marta Gonzalo Quiroga and Dr. Yoruany Suñez Tejera, entitled Innovation and conflict resolution: the intersection of new technologies, artificial intelligence and alternative methods. The authors are professors at the Universidad Rey Juan Carlos de Madrid and the Universidad de la Habana, respectively. Both authors are renowned legal professionals with extensive professional and academic careers. The book deals rigorously with issues related to ADR (Alternative Dispute Resolution), law on modern technologies and restorative justice.

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1 INTRODUCTION

The launch of GPT Chat in 2022 marked a turning point for generative AI. This technology, while not novel, had evolved to the point where it could no longer be ignored in many professional sectors, including the legal sector.

Legal professionals have since discussed the uses, problems and challenges that relate to AI and other associated technologies. But, to date, no work has dealt in depth with these issues in relation to the field of Alternative Dispute Resolution.

The book unites the law on modern technologies with Dispute Resolution, covering both civil and commercial areas as well as the criminal field. It is an innovative and unique work, notable not only for its subject matter but also for the intelligent way it combines legal disciplines, emerging technologies, and even philosophical aspects related to artificial intelligence. Additionally, it is an essential read for anyone seeking a deeper understanding of how these technologies can aid legal professionals in their daily practice. The book delves into the legal implications of AI while maintaining a highly practical approach, stemming from the extensive professional and academic experience of the authors, who are known for their grounded and realistic perspective.

2 ABOUT THE AUTHORS

Marta Gonzalo Quiroga, PhD, Professor of Private International Law (DIPr) at the Universidad Rey Juan Carlos de Madrid (URJC) is one of the most renowned figures within ADR in the Spanish-American sphere and has more than seventy academic publications in her career, including articles, monographs and collective works.

Her commitment to innovation and fight for a better and more adequate Justice within the framework of a universal culture of peace, which led her at the beginning of the new millennium to be one of the first researchers, if not the first, to introduce ADR - and mediation in particular - in the Spanish University (2001), stands out.

Professor Quiroga has provided valuable contributions and references in the field of arbitration and mediation, analyzed from the perspective of both international comparative law and the domestic framework. Her contributions not only provide a descriptive analysis, but also propose strategies to overcome current limitations, such as the development of more robust regulatory frameworks to regulate the integration of technology in ADR, while maintaining a balance between innovation and respect for ethical principles and justice.

Professor Suárez Tejera holds a PhD in Legal Sciences from the University of Havana (UH) and is a specialist in Criminal Sciences from the Central University Marta Abreu of Las Villas (UCLV). She has published several papers in prestigious international journals.

She is a full professor of General Criminal Law, Special Criminal Law, and Criminal Procedural Law at the University of Cienfuegos "Carlos Rafael Rodríguez" (UCF). Additionally, she works as a lawyer for the National Organization of Collective Law Firms (ONBC) and coordinates the diploma program "Digitalization and Artificial Intelligence in the field of Criminal Sciences and Criminology: reality and challenges." She has an extensive academic career and is also a pioneer in studies on AI and cybercrime.

3 STRUCTURE AND CONTENT OF THE WORK

The work is divided into two chapters. The first, written by Professor Gonzalo Quiroga, is entitled Lights and shadows of modern technologies in ADR: clarifying the dark side. The second chapter, signed by Professor Yoruany Suárez Tejera, entitled Alternative Criminal Justice: a new era in conflict resolution, relates ADR, criminal law, and modern technologies,

especially AI. In addition, it is worth mentioning the magnificent foreword by Professor Juan Mendoza Díaz, eminent jurist, Professor of Procedural Law at the Faculty of Law of the University of Havana, and President of the Cuban Society of Procedural Law.

The first chapter discusses the applications of AI and other technologies in the context of ADR. One of the central ideas of the analysis is that legal practitioners must meet the challenge of AI through training and study, which then allows them to incorporate these tools into the practice of law and other legal activities.

This chapter is divided into seven points, which can be summarized in three: Definition of concepts, general aspects, and challenges of AI.

The author highlights that technology has always been an essential complement to ADR, functioning as a crucial support tool. This is clearly seen in aspects such as the communication systems used to conduct online meetings, although other applications can also be mentioned. Professor Gonzalo Quiroga examines both the advantages and the challenges that technologies pose in this area, especially in terms of automation, efficiency, and access to justice.

In this sense, AI, she says, can have functions that go beyond replacing mechanical tasks or assisting professionals in technical functions. One of the advantages she points out is the neutrality and appearance of impartiality of the AI involved in conflict management, which can increase the confidence of the parties that come to them. An interesting example she proposes are systems that allow the selection of optimal arbitrators or mediators in out-of-court proceedings. From there, the professor proposes the possibility of using AI as a tool for proposing solutions to the parties in situations of deadlocked negotiations, taking advantage of the neutral component of the latter.

This section also addresses other advantages that AI can bring to ADR, particularly regarding the speed of proceedings, document management, confidentiality, and transparency for the parties involved.

In this regard, one of the most relevant and interesting points from a current legal standpoint is the section dedicated to so-called ADR 2.0 and ODR (Online Dispute Resolution). This part discusses the prejudices that often surround the integration of AI in ADR and provides a clear explanation of the concepts, which will undoubtedly serve as a reference for any future author studying these topics.

After covering the previous points, the chapter moves on to analyze the unresolved issues surrounding AI. These issues can be divided into technical challenges, legal problems—mainly due to the lack of regulation in many areas—socio-economic difficulties such as the digital divide, environmental concerns, and ethical and social issues.

Professor Gonzalo Quiroga's analysis is thorough and interdisciplinary, covering all issues related to AI from a critical perspective. One of the most commendable sections is the one addressing the challenges that may arise when integrating AI with ADR, titled Acceptance of the Use of Emerging Technologies in Each ADR. One of the most notable insights comes from her innovative and original "humanistic proposal," where she contrasts the neutrality and efficiency of computer programs with essential human qualities like empathy and active listening, which are crucial for conflict resolution, particularly in methods such as mediation. In this regard, the author proposes a hybrid humanistic system that merges the efficiency of AI in suggesting objective solutions with the human touch of ADR professionals, ensuring human involvement both in interactions with the parties and in the solutions reached.

Her contributions extend beyond mere reflection, as the work includes numerous significant proposals for both the regulation and the implementation of AI in ADR. These proposals address some of the challenges and risks associated with these systems. Specifically, they

focus on three key aspects: the privacy and confidentiality of proceedings, particularly concerning AI learning systems and big data; the biases that could compromise the neutrality of AI; and the potential ethical conflicts that may arise from the solutions suggested by an automated system.

In connection with the previous points, the work also provides *lege ferenda* proposals. Specifically, the author suggests a stronger regulatory framework and the implementation of ethical protocols to ensure the responsible use of technologies. Regarding this, various analyses of existing protocols are conducted, and an original, comprehensive proposal is made that could serve as a reference for developing a more uniform deontological framework in this field.

At the end of the first chapter, the author offers conclusions on the future of ADR and AI, noting that the use of the latter will quickly become more widespread as its success, already evident in its brief period of application, continues to grow. Nonetheless, the author advocates for a “technological humanism” to prevent individuals involved in conflicts from feeling displaced by automated systems.

The second chapter, written by Professor Yoruanys Suárez Tejera, deals with alternative criminal justice, analyzing the application of ADR in the criminal field, as well as the application of modern technologies in this field.

It is, indeed, a work that deals with a special, topical subject that arouses great academic and social interest. It is undoubtedly daring, proactive and necessary work, which openly raises many of the problems that affect these areas and confronts some of the traditional positions. The author addresses the benefits and limitations of implementing alternative mechanisms in the criminal context, proposing that modern technologies, including AI, can play a crucial role in the evolution of criminal justice.

In the first subsection, the author places special emphasis on restorative justice as opposed to retributive justice. Her analysis delves into the foundational principles of the justice system and the underlying bases that should support criminal law. These reflections guide the text toward advocating for ADR in the criminal sphere. In this regard, the author critically examines different doctrinal positions on these systems and their implementation in the criminal field. The third section comprehensively reviews the various ADR mechanisms and their legal support within criminal and penitentiary procedures, as well as different doctrinal views concerning them. Notably, the legal analysis is not conducted from a localist perspective but aims to be comparative and cross-cutting, addressing fundamental aspects rather than specific provisions of a particular legal system. Thus, her conclusions are easily transferable to any criminal system that incorporates a concept of restorative justice as one of its foundations.

In Professor Suárez Tejera's analysis, the benefits of ADR in the criminal field are highlighted. However, her approach is not devoid of criticism, nor does it overlook the challenges posed by the application of these methods to non-dispositive areas, such as criminal law. The author's stance is clearly in favor of ADR in this sphere, though she points out that significant efforts by the State and all relevant stakeholders are necessary to address the biases surrounding these methods in the criminal context. She also notes, among other issues, the insufficient training of professionals in this field.

The author dedicates a section to analyzing the implementation measures of ADR in the criminal sphere in Cuba, offering a detailed overview of the context and identifying certain unresolved issues in current legislation, while also emphasizing the significant advancements made in recent years.

In the closing section, the relationship between AI and ADR is explored. Although the author acknowledges the technological limitations of AI in this field, she also highlights its potential

to predict conflicts and assist in decision-making within extrajudicial contexts. However, aligning with previous chapters, the author underscores ethical issues related to the use of AI, such as privacy and discriminatory bias problems. Like Professor Gonzalo Quiroga, Professor Suárez Tejera defends human involvement alongside AI systems. In the author's view, one of the main limitations of AI in this area is its lack of emotional understanding of conflict, which must be supplemented by the human factor, essential for grasping the nature of criminal behavior.

The chapter concludes with a defense of using methods like mediation in the criminal sphere within the framework of restorative justice. It is particularly noted that these methods can enhance the victim's presence in these processes, which is crucial for comprehensive damage reparation. Concerning AI, the author closes by supporting the establishment of regulatory and ethical frameworks for its implementation in ADR. While the use of AI in these areas may be nearly unavoidable, setting ethical boundaries for its operation would be necessary to uphold the principles of justice.

4 CONCLUSIONS

There is no other book on the market like *Innovation and Conflict Resolution: The Intersection of New Technologies, Artificial Intelligence and Alternative Methods*, which deals with such a rigorous and daring approach to these rapidly expanding and highly topical issues.

The approach to the issues is unusual in a clever way. It is a mixture of perspectives and disciplines that allow the application of AI in law to be analyzed from places never reached before. Both Professor Gonzalo Quiroga and Professor Suárez Tejera avoid generalities and clichés to enter controversial issues, laying the first stones for the construction of some doctrines that will develop in the future, when AI technology becomes an inseparable part of our lives and not just a passing novelty.

The value of the work lies not only in the academic rigor with which its themes are addressed. It shines, especially, in the strong conviction for the creation of a culture of peace, and ADRs are an excellent tool for that purpose. That is why any technological advances that can help ADRs are also aimed at improving the harmony and coexistence of citizens.

The speed at which modern technologies are developing, especially AI, makes it necessary to slow down and analyze the field from a humanist perspective. The questions addressed by the authors are in tune with that famous Henry Ford quote 'True progress is progress that makes technology available to all.' The authors not only manage to convey with extraordinary clarity the ideas on a novel and complex subject. More importantly, they have succeeded in understanding that the fundamental aspect of AI must be to put it at the service of all professionals from different disciplines, but especially at the service of peace.