Ethical Design and Governance in Artificial Intelligence-Online Dispute Resolution

Submitted by: University of Melbourne

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Level of automation spectrum

Technology-based substitution/automation of offline DR processes:

OADR systems aka 'first generation ODR'

Hybrid technology:

Use OADR and automated software

e.g. Blind-bidding/automated negotiation; tiered end-to-end ODR using some AI
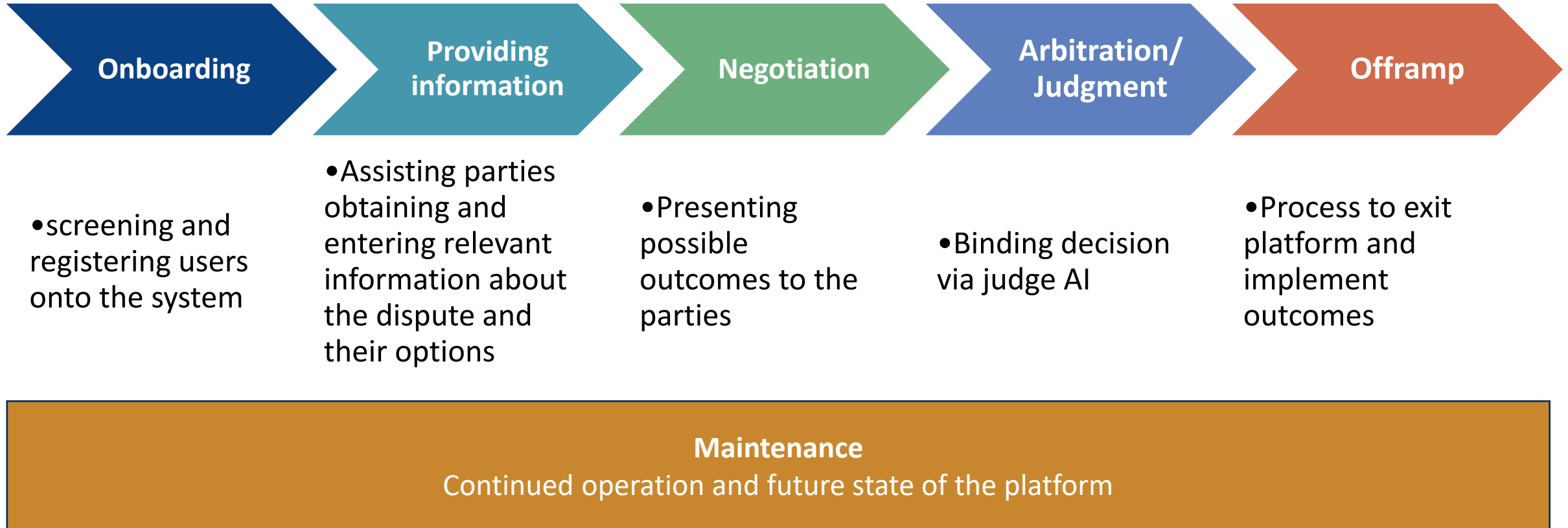
Autonomous ODR systems

Problem diagnosis & resolution capabilities -fully automated using algorithms, legal data analytics and predictors & legal AI techniques

Tan, Vivi, Online Dispute Resolution for Small Civil Claims in Victoria: A New Paradigm in Civil Justice
Deakin Law Review, Vol. 24, No. 1, 2019,
U of Melbourne Legal Studies Research Paper No. 853, Available at
SSRN: https://ssrn.com/abstract=3452952

Hybrid AI-ODR

Onboarding
- screening and registering users onto the system

Providing information
- Assisting parties obtaining and entering relevant information about the dispute and their options

Negotiation
- Presenting possible outcomes to the parties

Arbitration/ Judgment
- Binding decision via judge AI

Offramp
- Process to exit platform and implement outcomes

Maintenance
Continued operation and future state of the platform

Key principles of ethical AI

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Transparent and Explainable	Transparency looks to provide clarity for users around the functions of the system and its outputs. While explainability requires an account of that process that is able to be understood by users.
Fair	A fair system for managing separation and resolving parenting and property arrangements will have strategies for ensuing it is free of bias and alert to inequalities of bargaining power.
Accessible	System accessibility means access is limited to appropriate use cases but is able to be used by all possible users within the target categories, ideally by involving representatives of all users been included in the design process.
Accountable	Accountability requires that outcomes can be reviewed.

	Onboarding	Providing information	Negotiation	Judgment/ arbitration	Offramp	Maintenance
Transparent and Explainable		How are parties given information about the need for transparency on their own part? What happens if individuals do not fully disclose all relevant information?	Are parties provided with accessible information about the process and alternatives?			
Fair	Are there risks of abuse of bargaining power between the parties?			Is the decision making process fair and free from bias?		What is the process of governance to review of use cases and outcomes to ensure that the outcomes are fair and free from bias?
Accessible	Is the process accessible and usable by all people with an appropriate use case?					
Accountable	Are the scope, purpose, outcomes and limitations clearly defined?		What is the process of referral for parties who cannot come to an agreement?		What processes are available to review outcomes – in a manner that is both efficient and effective and does not replicate the system?	

Why does this matter?

- accessibility
- justice,
- social license
- trustworthiness
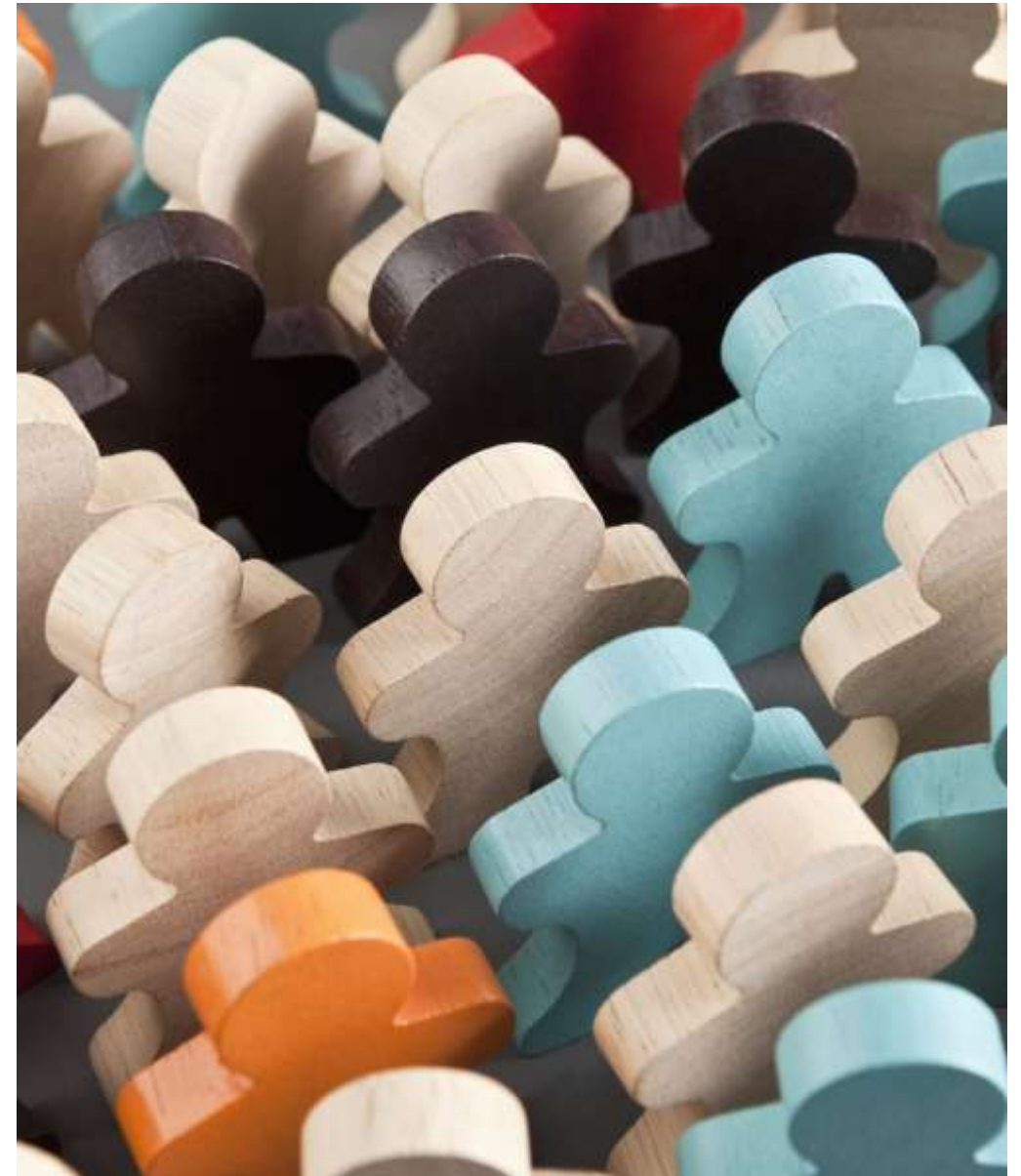
Thank you

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