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INTERNATIONAL DISPUTE RESOLUTION
AN ISSUE RELATING TO COVID-19 AND INTERNATIONAL DISPUTE
RESOLUTION

Abstract

The chapter has provided the definition of the key terms that comply with the research context. On the other hand, the articulation of the legal framework governing the issue relating to COVID-19 has provided a clear insight into the judicial proceedings in mitigating the issues concerning “international dispute resolution”. The provision of aims and objectives has been significant for rendering adequate academic knowledge regarding the topical scenario. Moreover, the research question has provided a significant relationship with the articulations which can help readers to anticipate adequate learnings from this research.

The literature review has provided adequate knowledge regarding the legal framework which can govern the issue relating to COVID-19. Methods of online dispute resolutions (ODR) have been identified in this “literature review” chapter. The research has also highlighted strategies to regulate effective virtual interactions. Methods to deal with “international dispute resolutions” have been elaborated in this context. The conceptual framework has been identified in the research.

Chapter 1: Introduction

1.1 Definition of terms

The resolution of corresponding "International Disputes" refers to those interventions acknowledged for redressing the simmering discontent within a specified region. For instance, COVID-19 has ushered in a significant crisis towards mankind where the first wave of the pandemic has suspended various judicial proceedings as of FY 2020. In this regard, respective settlements were undertaken for addressing the issues of the global pandemic. In light of the impacts shed by the global pandemic, the cataclysmic distress upsurge in a global context has been closely analysed by the articles articulated by "Dispute Resolution International (DRI)". As per the preliminary judgements proceedings articulated in this legal framework, the motive to develop and accelerate the ⁶use of online platforms for the conduct of proceedings is to be addressed for fostering corresponding resolution of ⁷the issue of the COVID-19 Pandemic.

The ⁸"United Nations Commission on International Trade Law (UNCITRAL)" has defined the respective technical Notes on "Online Dispute Resolution (ODR), 2016" as a mechanism sought for resolving relevant disputes by apprehending the utilisation of ICT. The articulated paragraph has stated that the implementation of electronic communications can be instrumental for evolving trivial resolution mechanisms and adopting new ones which could generate resilience to future working programmes. Moreover, UNCITRAL has espoused a series of kick-off discussions concerning the resolution of disputes as of FY 2020 and 2021. However, the series of articulated processes are subject to be amended by different administrators for accelerating the resolution process.

1.2 The legal framework governing the issue relating to COVID-19

1.2.1 International Framework

The resort to fostering peaceful settlement of "International Disputes" has been enacted through ¹the "Coronavirus Act 2020" which was enforced on 25 March 2020. This piece of legislation has been adjudicated as the governance of counteracting the impact of COVID-19. In addition, the act provided for the regular checking of the status of the respective report which is to be submitted by the ministers every two months. On the other hand, the act provided for the registration of healthcare staff and professionals for disseminating relief for dealing with an unprecedented situation.

1.2.2 Regional Framework

The “COVID-19 Law Lab” has been classified as a joint venture that has bestowed its potential towards amalgamating and sharing legal documentaries across several nations. The conglomerate has been instrumental in implementing strong legal frameworks to manage the ¹ impact of the pandemic. On the other hand, the provision of relevant pandemic-related laws has been espoused by this conglomerate which can adhere to international ⁹ human rights standards. In this context, the appraisal of ensuring better standards of well-being among individuals has been indispensable for constructing a consolidated health system.

1.2.3 UK National Framework

The articulation enshrined in “Article 15 of the European Convention on Human Rights” has been significant towards the recognition of the protracted states of emergency and derogations to be awarded the effect of normalisation. This signifies that the legal framework has been instrumental in appraising the standards required for stabilising the habitat of mankind while consolidating their rights. The proposal aims to support National authorities to gain a clear insight into the strategies required for addressing the unprecedented legal complexities and encouraging the manifestation of a more harmonised approach in future. The enforcement of the “Public Health (Control of Disease) Act 1984” has been instrumental in empowering the local authorities without seeking approval from the courts. In this regard, the act provides for protecting the public from being exposed to the impact of the virus.

1.3 Discussion on the Adequacy of the existing legal framework

The existence of a legal framework has been instrumental in ensuring data protection among various sectors which are subject to be impacted by the global pandemic. In addition, these legal frameworks have been universally accepted. For instance, the application of "Draft Laws" has been instrumental in translating the policy intention into an enforceable and effective legal instrument. On the other hand, these existing legal acts provide for the apprehension of ² appropriate and timely intervention to control the spread of the disease as well. On the other hand, surveillance, as mandated by the act has been instrumental in identifying, investigating and disseminating the community about the corresponding impacts and provides for isolation and quarantine. Furthermore, the provision of indemnity in cases of clinical negligence along with the feasibility of managing and disposing of the dead bodies has been instrumental in generating dispute resolution in the context of the impact shed by the global pandemic.

1.4 Aim and Objectives

1.4.1 Aims

The **research** aims to evaluate the Is she reacting to COVID-19 in light of international dispute resolution by considering respective case laws and regulatory frameworks.

1.4.1 Objectives

The research objectives which are to be accomplished for generating Facebook academic outcomes are mentioned below.

- To determine the issues associated with COVID-19 considering international dispute resolution
- To explore the methods associated with online dispute resolution
- To determine the Studies for regulating effective virtual interactions
- To acknowledge the methods for dealing with "International dispute resolution"

1.5 Research question

The Research Question which is to be answered for availing adequate insight into the research context is "What is the relationship between advocacy of the "International Disputes Resolution" and corresponding judicial proceedings, which were undertaken for resolving the issues related to COVID-19?"

1.6 Conclusion

"International Disputes Resolution" entails the strategies instrumental for enforcing and accelerating the conduct of proceedings which can identify the issues and mitigate them accordingly. On the other hand, the enforcement of legal adjudication for consolidating peaceful settlement has witnessed their appraisal through negotiation, inquiry, mediation and respective legal procedures. This concludes that the advocating legal jurisdictions are instrumental in facilitating resilience among the aggrieved individuals of the community from the issues wreaked by COVID-19. The articulation of the aforementioned frameworks has concluded that their enforcement has been significant in the strategies for fostering the normalisation of the current crises generated by the global pandemic.

Chapter 2: Literature Review

2.0 Introduction

The chapter literature review has articulated instrumental information which complies to the research topic by gathering relevant information from existing works of literature. The chapter shed light on the determination of the Issues related to Covid-19 in “international dispute resolution” as well as articulated the interventions for certifying ODRs. The chapter laid stress on articulating the studies for regulating effective virtual interactions as well as provisions for dealing with international dispute resolutions. This signifies that the chapter has been instrumental for readers in acknowledging relevant knowledge about the internal disputes which have generated entangled crises in the community. In this regard, the chapter has provided the application of relevant theories for obtaining strategies to mitigate these implications. However, significant gaps in the literature as well as concluding remarks of the entire chapter have been provided accordingly.

2. Dissertation

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Chapter 2: Literature review

2.1 Conceptual Framework

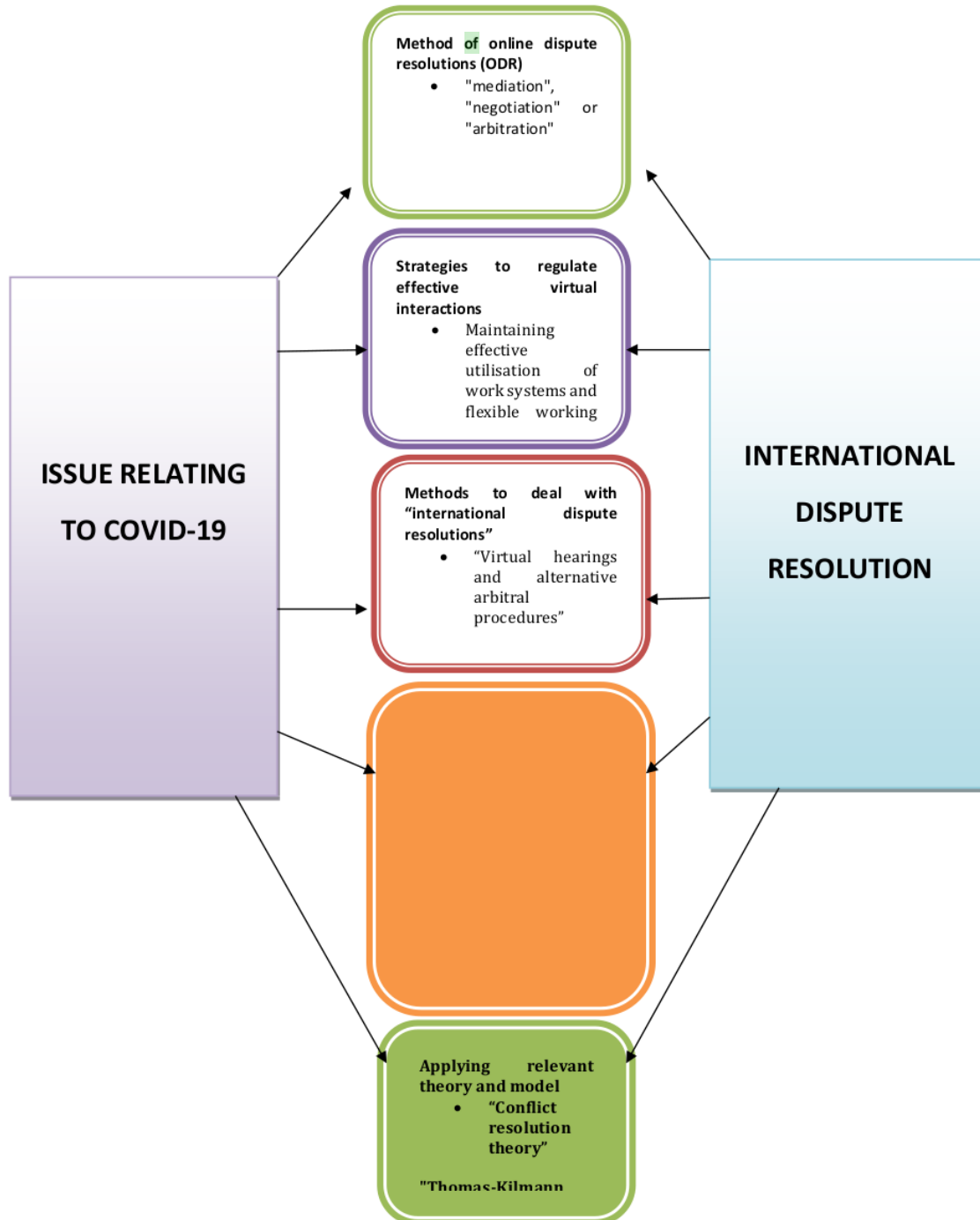


Figure 2.1: “Conceptual Framework”

(Source: Self-developed)

2.2 Issues related to Covid-19 in “International Dispute Resolution”

2.2.1 “Objections to Remote Hearings”

The practice of arbitration has witnessed a sudden shift to the remote hearing concerning the impact of COVID-19. FY 2020 has witnessed a conduction of remote hearing based on arbitration where considerable resistance acknowledged by the counsel was set. On the other hand, contradictory arguments have opposed the Consideration of tribunals based on conducting remote hearings. The remote hearings were considerably undertaken by the family Justice system across England and Wales where over 1,000 parents, carers and professionals were considered. In this context, corresponding jurisdictions undertaken in the family court concerning the impact of COVID-19 have laid stress on enforcing social distancing measures. On the other hand, an evenly balanced reaction was acknowledged by the respondents. However, it was acknowledged that remote hearings were justified to be certain concerning respective cases in the current circumstances. The study has articulated that remote hearings rose from 21% before March 15. This signified that objections were raised by the respondents thus encountering 2.1 cases for every 10 cases. On the other hand, remote hearings rose up to 46% after March 15, 2020, which accounted for 4.1 cases out of every 10 cases. The context of resolution of disputes has witnessed that Tribunals were likely to dismiss objections considering the remote hearings. Corresponding surveys have witnessed the dismissal of respective objections to accounting for 50% heard after March 15.

The arbitration process was acknowledged as a confidential piece of adjudication and espoused the determination of little public information. As a result, few objections and issues were raised during remote hearings. In addition, arbitration decisions have been raised by parties in the courts for addressing those objections. The reality of technological limitations has been apprehended by the court, which occurred due to technological limitations, such as access to hardware and software. On the other hand, internet connections and technological glitches have been significant issues which have paved potential hindrances and disruptions for raising respective witnesses. The postponement of appraising in-person hearings has interrupted the shuffling of the corresponding witness. Thus, the management of the proceedings has hindered the conduction of adequate communication for overcoming the conduction of remote hearing. In this context, the court acknowledged the prevalence of the

abuse of technology as a concerned issue for hearing the implications obtained by the impact of COVID-19. Therefore, the occurrence of fraudulent activities has been a critical issue.

2.2.2 "Canadian Court Cases"

Remote proceedings in eight Canadian court cases have appraised corresponding issues related to Covid-19 in "international dispute resolution". The court's allowance for moving the party's request was concerned with respective adjournments conducted in two of the eight cases. The "[Stewart v. Doe, 88 F. App'x 277 (2004)]" witnessed the holding of oral discoveries as a part of remotely citing concerns which testified to the credibility of the witnesses. The case law has witnessed the coaching of the respective witnesses by people considered "aides off-screen". On the other hand, the unsuitability of the counsel's at-home computer is witnessed by the people about the abuse of technology. On the other hand, April 2020, witnessed that oral discoveries were not required to be inculcated till the impact of the global pandemic was over. In addition, considering the "[Miller v. Fsd Pharma, 2020]" court case, the precipitation notion was objected to by the council considering the occurrence of remote hearing as not being practical and procedurally fair in such circumstances. The proceedings were considered impractical according to the voluminous documentary record. In this regard, the complexity of such legal issues was impossible for the multiplied team to undertake respective medication strategies at the same location. Furthermore, In light of the consideration of remote proceedings, the defendants' counsel has resorted to objecting and arguing in this regard. However, the honourable court agreed with the plaintiff and held that it was inappropriate for compelling a party to undertake a proceeding based on given conditions. The reason was that the legal proceedings thus adjudicated during remote hearings may not help in fostering resilience to lower the implications of COVID-19.

2.2.3 "Objections in International Cases"

The decision adjudicated in the "Swiss Federal Tribunal" has to update the objectification of the ordering of a remote hearing as decided by the lower court. The corresponding implications have shed a narrow context for articulating respective court litigation. In this regard, no such ¹¹ legal basis in the "Swiss Civil Procedure Code" has provided for the allowance of the main hearing to proceed remotely against the will of one of the parties. For instance, the dismissal of the appeal by the "Austrian Supreme Court" had challenged the decision of an arbitral tribunal for holding corresponding merits of conducting oral proceedings remotely. In this context, arbitration to the tribunal's decision has been responsible for holding remote

hearings over the objection of one party. The court judges that remote hearing does not violate the party's right to be heard. Moreover, the judiciary held that "Article 6" of the "European Convention on Human Rights" has been instrumental in Supporting the conduction of remote hearings by providing a means for the party to be heard. On the other hand, the court held that considering the current climate the indefinite postponement of such proceedings is to be carried out until respective adjournments are sustained as permitted by in-person matters. The consideration of the postponement for an indefinite length is not subject to be acceptable under the circumstances.

2.3 Method of online dispute resolutions (ODR)

ODR refers to the form of dispute resolution which utilises technology in order to facilitate effective resolution of different disputes between parties. This method primarily involves "mediation", "negotiation" or "arbitration" or sometimes the combination of all these three. ODR involves the traditional techniques of ADR (Alternative Dispute Resolution) which regulates the three processes by complementing different innovative techniques, as well as online technology to the process. It is also helpful in involving different stakeholders without the requirement of interaction between people and access to different physical facilities. Policy reform in insolvency and space in debt resolution can identify the recent trends and potential address by ODR while working with the government on different policy reforms before COVID-19. Governments of different countries have started to regulate the importance of addressing financial stress before maintaining insolvency in a business. Maximising the likelihood of different business rescues can ensure the potential distress by enhancing the practice of government in different markets of developing economies.

The "digital first services" is an attractive prospect which allows the regulators and cash-strapped courts in maintaining the choices of digital natives which ensure online medium of interaction. The efforts of ODI is unfolding the business perspectives all over the world which is effective for the courts and justices to look for signing ODR technologies beyond their major and extensive pitfalls. "Section 47B of the Competition Act 1998" has regulated the framework of "dispute resolution" in the UK in order to maintain the three distinct "legal systems" in the domain. Section 1 of "EU law" integrates the modifications to effective operations in the period of Brexit transition. The courts of UK are now solely responsible for application and interpretation of the "retained EU law" according to the principles of "European Union (Withdrawal) Act 2018". These principles are effective to interpret the ODR

for the alleged violations of the "European Convention on Human Rights". "Human Rights Act 1998" has regulated the decisions of domestic courts for accounting the rights related to the cases after the pandemic situation. According to the "*BTI 2014 LLC v. Sequana SA and others*", Sequana was liable for maintaining indemnity for integrating BAT for maintaining costs of ODR for integrating substantial dividend.

This case is effective to regulate the facts of proceeding for maintaining the actions of claimant BTI which has challenged two dividends such as €135 million and €443 million which were consecutively paid by AWA (Arjo Wiggins Appleton Limited) to their parent company "Sequana SA". These payments have regulated the risks in maintaining the administration level of ODR and claimed challenges for the payment of dividends. The payment dividends have been caught by the "Section 423" of the "Insolvency Act 1986". As per the decisions of "supreme court", the creditors of the company are not in any kind of insolvency and it has dismissed the appeal of BTI. Thus, the digital space of different authorities and parties can convene disputes to resolve them and integrate efficiency after the pandemic situation. The ODR is capable of holding their hearings by facilitating video conferencing and ensures the submission of evidence papers through online mode.

2.4 Strategies to regulate effective virtual interactions

Maintaining effective utilisation of work systems and flexible working hours

Virtual teams can be developed when there is an effective utilisation of work systems and flexible working hours. 40% of the employees are facilitating remote working facilities after the emergence of the pandemic situation. Effective virtual interactions can be beneficial for maintaining the advantages of working systems and flexible working hours. On the other hand, hindrances in regulating flexible working hours can degrade the level of productivity of a company while interacting with the employees. Virtual interactions can clarify the working systems when dealing with the efforts and trusts while brainstorming the teams. On a contradictory view, lack of materials for training conferences can create constraints in team building capacity while regulating the responsibilities of an organisation after the emergence of pandemic situations. Virtual meetings of an organisation always have a clear structure and agenda which are effective to integrate the business proposes with effective dispute resolutions. The supervisors as well as managers can record the role of each person in organisations by posting it. Maintaining online writing communication can ensure a

productive working environment to incorporate with the deals which can measure competitive advantage.

Role of hybrid solutions in international DR (Dispute Resolution)

Hybrid DR refers to the procedures which combine two and more traditional DR processes into an effective regulation. The process of hybrid DR can be effective to the arbitration-mediation process while regulating effective intractability. On a contradictory note, lack of legal binding in the enforcement of hybrid solutions can be detrimental for facilitating communication with the targeted individuals in the virtual mode. Maintaining privacy of information is effective for dealing with the subject of investigation and the contention regulating the proceedings. According to the case law of *"ZXC v. Bloomberg LP [2020]"*, ZXC is the claimant who works for the company 'X Ltd' which is publicly listed and operated overseas. The "supreme court" of the UK has regulated they are enforcement body to investigate the company for their various transactions involving the company 'X Ltd.'. It is effective for maintaining foreign jurisdiction with an assistance of investigation related to corruption, bribery, conspiracy and different offences under the "Fraud Act 2006" and "Crime Act 2002". The threshold of sensibility according to the "Data Protection Act 2018" in the UK has regulated the confidentiality in this case. Reasonable expectations of privacy have been facilitated to maintain the protection of information and the striking balance between "rights to privacy" and "freedom of expression" after the emergence of the pandemic situations.

The hybrid solutions of a company can effectively integrate the foreign jurisdiction to maintain DR in an effective intractability. This type of solution is effective to formulate strategic advantages in maintaining online communication with the claimants of an "international regulatory framework". Moreover, the process of mediation and arbitration is important to enhance the neutral nature of third parties while reaching effective resolution alternatives. The settlement of courts to settle the issues in the virtual mode after the pandemic period has regulated effective advantage for dealing with the monetary value. Establishing effective tools for "virtual teams' communications" can enhance the performance level of companies while dealing with interactive features. On a contradictory note, a lack of opportunities to facilitate organisation objectives with the settlement of courts can degrade the performance in formulating and improving the effectiveness of virtual interactions.

Creating effective team agreement

Facilitating strategic team agreement can be beneficial to ensure virtual collaboration in organisational purposes. Team agreement in an organisation is fruitful to achieve the organisational objectives while facilitating virtual collaboration in the hybrid working facilities. On a contrasting view, lack of just-in-time communications can be challenging for facilitating instant messaging services for international DR facilitation. Maintenance of effective collaboration skills can increase the productive capacity of employees of an organisation working remotely. For instance, ***“UK–EU Trade and Cooperation Agreement (TCA)”*** has regulated effective mechanisms for settling different disputes related to trade procedures. TCA has managed the terms of agreement by imposing a particular tariff on their goods which are originating from other parties. These kinds of agreements can help the governments in accessing the help of organisational facilities in order to ensure regional incorporations. This type of agreement is helpful for the organisations in regulating their trade incorporations for ensuring virtual collaboration and hybrid working facilities.

2.5 Methods to deal with “international dispute resolutions”

“Virtual hearings and alternative arbitral procedures”

Facilitation of virtual hearings can be fruitful for maintaining arbitral procedures after the pandemic situation. Due procedures, efficiency, and different considerations regarding DR can be facilitated to point out natural inclination of different parties in arbitral proceedings. This type of proceedings is helpful for facilitating the resolved nature of disputes as quickly as possible. On a contradictory note, the lack of maintenance in alternative hearing formats has created restrictions during the pandemic period. The specific considerations can maintain the choice of "alternative hearing formats" in order to create the restrictions during the pandemic period while focusing DR. Proceedings can be the option which ensures virtual hearings and the document presented in a virtual manner which results in restrictions imposed during the pandemic period. On a contradictory note, the cost of these virtual proceedings is not up to the mark which can regulate the potential issues and due processes extracted from the proceedings. It is better for the judges to simply postpone their hearings or suspend the required proceedings until the covid-19 restrictions are lifted.

Justifying potential valuation

Comprehensive proceedings across States can be maintained for the jurisdictions to integrate the legal consequences after the pandemic period. This type of consequences can ensure the solutions to 'investor-state disputes" while focusing on the "international investment law".

On a contradictory note, lack of potential valuation of the "international disputes" can degrade the society and ensure the financial standards. Emergence of the pandemic period has prompted different functional difficulties in global DR which integrates strategic hardships and institutional imperatives while solving the procedural vulnerabilities. Online resolutions of different civil disputes can be maintained by formulating the trial procedures in higher quotes in a virtual manner. The increasing uptake of ODR can integrate the system of public justice for the resolution of different disputes in the international sector. For instance, eBay has resolved over 60 million different disputes in a year using the ODR strategy. The claims can be regulated in the resolution of civil disputes to eliminate the tension between the desired justices and regulate the resolution procedure in an efficient and economical way. ODR regulates the use of different communication and information technologies to help different parties resolve disputes. The digital platform facilitated by ODR can ensure the progress of different companies in the resolution process for the disputes which have low value. On the other hand, lack of neutral evaluation can be effective for guiding the pathways and ensuring negotiations in the neutral evaluations. Digital communication helps in facilitating the partition of asynchronous messaging and hearings by uploading, as well as responding to the evidence on online platforms. The disputes arising from different online transactions on the websites of e-commerce such as eBay, PayPal and Amazon while requiring geographical distance and jurisdictional responses. The potential nature of ODR can ensure the correspondence over disputes which can attract the eventual attention of governing bodies in DR proceedings.

2.6 Applying relevant theory and model

"Conflict resolution theory"

"Conflict Resolution Theory" refers to the formal or informal process which integrates two or more parties for maintaining and finding a peaceful solution regarding disputes. Managing international disputes can be effective to formulate the opinions of businesses to integrate the resource-based organisation culture. On a contrasting note, a lack of conflict resolution in international sectors can enhance the frequency of disputes which hinders trading procedures and the financial management of resources. Digitization of different organisation sectors and courts has regulated the reforming process in the pandemic period. The courts of the UK have regulated effectively "electronic filing system" and CE (Case Management) files in "Business and Property Courts" located in London in 2019. The mandatory professional

users are integrating the resources by avoiding the disputes and delays in their operational orientations.

Direct facilitation of these time frames can be effective for increasing the contingent approach while enhancing the performance orientations and pre-action protocols in the virtual contingency mode. According to the figure below, collaborating, competing, accommodating and avoiding are the four factors which can ensure compromising in regulating the reaction protocols in organisational orientation. Effective collaboration in regulating digital communication is helpful to integrate the ODR facilities in the courts to improve the virtual proceedings and decrease the time gaps for any proceedings. It is helpful to integrate the disputes in an efficient manner which can be effective to ensure the utilisation of proceedings in accordance with the "court of justice". The arbitral procedures in international dispute maintenance can be considered as an effective alternative hearing process while there are travel restrictions due to the pandemic situation.

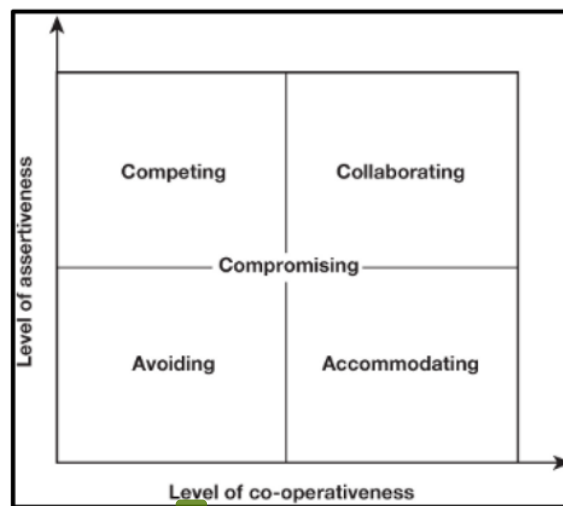


Figure 2.2: "Conflict resolution theory"

(Source:)

Thomas-Kilmann model

"Thomas-Kilmann Model" is based on two dimensions such as empathy and assertiveness. There are different strategies for dispute resolution such as compete, accommodate, avoid, compromise and collaborate. Virtual integration in understanding assertiveness and empathy can be effective to analyse different points of views as well as feelings while understanding the situation of a person. On the other hand, lack of strategy in computing can ensure the

drawbacks in understanding the frustration and aggression of an individual. According to the proceeding of “Walter Hugh Merricks v. Mastercard Inc [2019] EWCA Civ 674”, the case concerns the application regarding effective distribution of CPO (Collective Proceedings Order) has been managed with effective distribution of proceedings. CAT (Competition Appeal Tribunal) has regulated the suitable proceedings with the help of virtual interactions which has interrogative the permission to appeal in the "supreme court" of the UK. According to the figure below, high assertiveness and empathy can enhance the collaboration and competition in the regulatory bodies while maintaining the compromising nature.

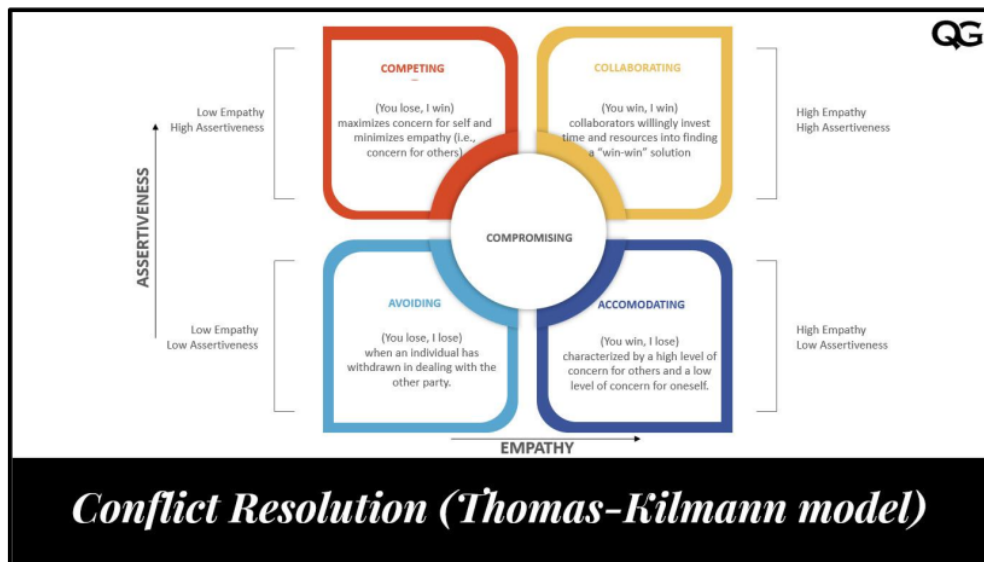


Figure 2.3: “Thomas-Kilmann model”

(Source:)

It is efficient for the individuals in regulating assertiveness and empathy in a direct proportion. Maximising the concerns for empathy can deal with the individuals which has regulated the avoiding nature of conflict situations in the organisational disputes. Virtual communications can integrate the balance between high levels of concerns and "win-win solutions" while investing in the resources and time. It will be effective for the international bodies to facilitate their ideas over virtual platforms while raising concerns for dispute situations. It is effective to conceptualise the feelings based on the point of views of different individuals living in a society.

2.7 Literature gap

The literature has identified different methods to facilitate the ODR proceedings in mitigating organisational and international disputes. However, it has not identified the challenges in regulating ODR in dealing with the international disputes. This gap has emerged due to the lack of resources available in the existing literature and the time constraints. Analysing more literary sources can be beneficial for maintaining the proceedings of bridging the gap. This literature review has not identified the formulation of DR implementation in different companies which are dealing in the international sector. Identifying those methods of DR implementation can be fruitful for maintaining the research in an effective manner.

2.8 Conclusion

It can be concluded that ODR is fruitful for facilitating different disputes between the parties. Effective negotiation can involve traditional implementations which can regulate innovative methods and online technological systems in the process. It is helpful to provide the "digital first services" for maintaining "policy reforms" in "debt resolution" of recent trends. It is helpful to reduce the financial stress for maintaining solvency in a business in crisis situations. It will be helpful for the "international regulatory frameworks" to deal with the consequences of negotiations in neutral evaluations while facilitating ODR. The functional difficulty can be managed by integrating virtual systems to reduce the functional difficulties while maintaining procedural vulnerabilities in the court of justice.

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