



# CCMA ANNUAL LABOUR CONFERENCE 2024

14 -15 MARCH 2024

ONLINE



THEME:

*THE IMPACT OF LABOUR MARKET DYNAMICS,  
TECHNOLOGY AND POLICY ON SOCIAL JUSTICE*



PLENARY 4 A

TECHNOLOGICAL ADVANCEMENTS SHAPING DISPUTE RESOLUTION

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# PRESENTATION OUTLINE



**CCMA**

COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION

**1. Introduction**

**2. eDiscovery**

**3. Online Resolution Mechanisms**

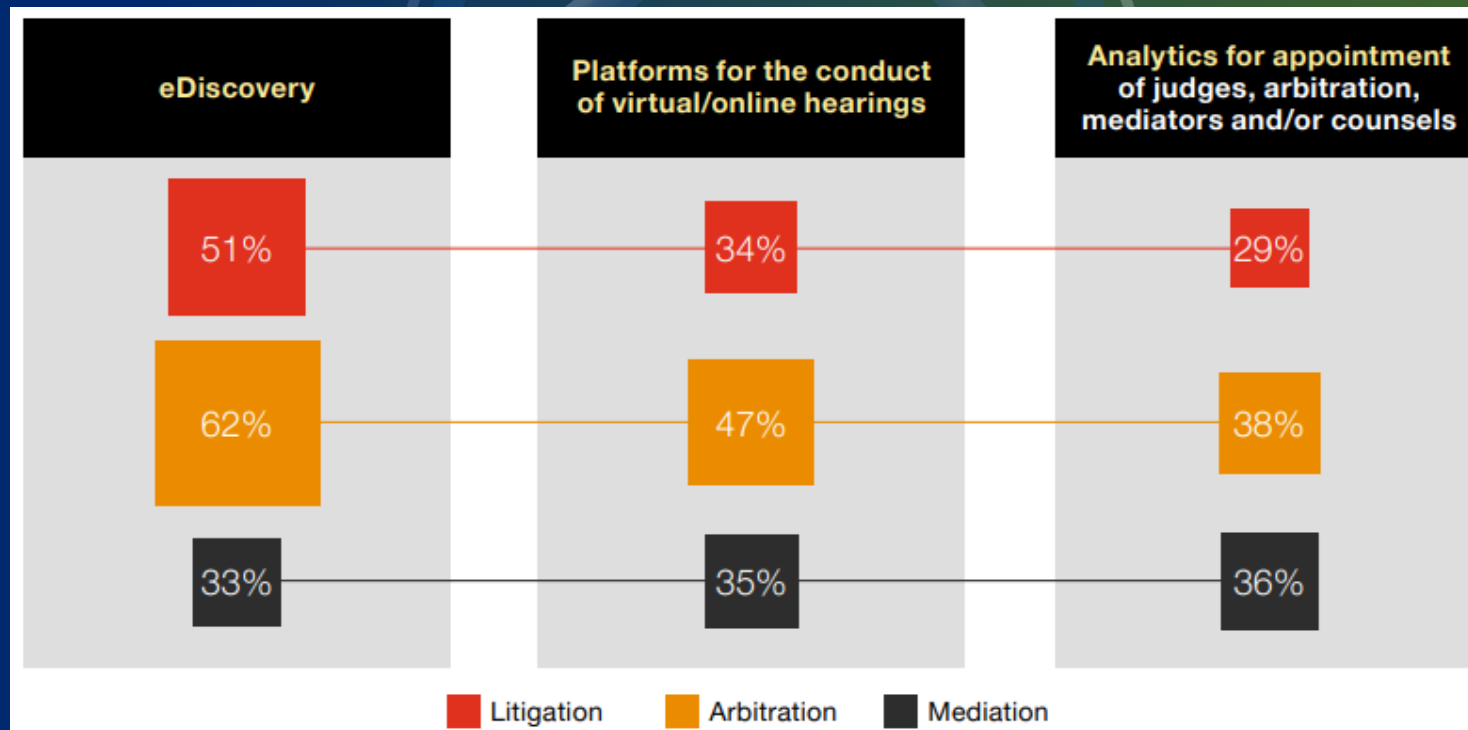
**4. Analytics in appointments**

**5. Embracing digital transformation**

# Introduction

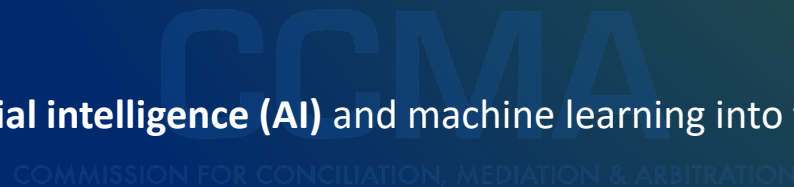
In a survey conducted by the Singapore International Dispute Resolution Academy (SIDRA), respondents ranked **eDiscovery**, **platforms for the conduct of virtual hearings**, and **analytics** for appointment of judges, arbitrators, mediators and/or counsels, as the **top three most useful technology tools employed in cross-border commercial disputes**.

Top three useful technology tools employed in cross-border dispute resolution



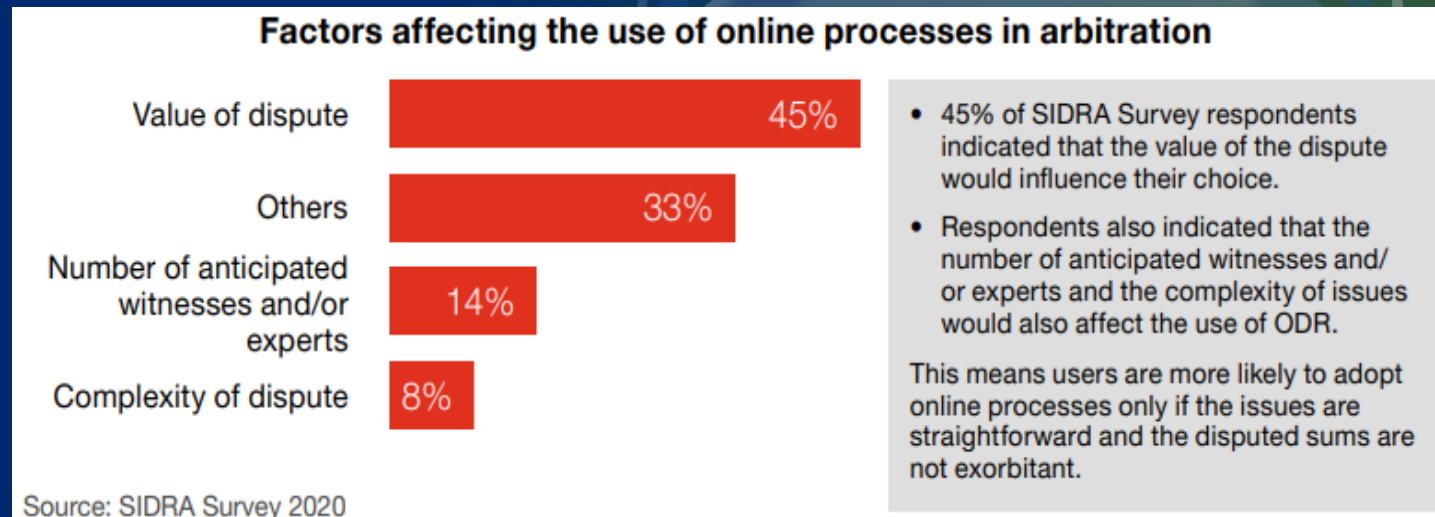
# eDiscovery

- By digitising the discovery process, stakeholders are able to better manage **time and cost**
- Currently, eDiscovery software enables collection, storage, processing and retrieval of electronically-stored information (ESI) on a **single platform**, from where the **information can easily be extracted and transferred between parties**.
- Users are also able to **perform document management activities** such as removing duplicates and performing keyword searches to identify and analyse the data
- In addition, digitised evidence and transcripts can be tagged and classified as plaintiff and defendants' documents in the software, **making the search for information even easier**
- eDiscovery processes **safeguard the chain of custody and integrity** of the electronic data / making the discovery process more efficient.
- Incorporating the power of **artificial intelligence (AI)** and machine learning into their platforms to **assist in document reviews**



# Online Resolution Mechanisms

- Social distancing and remote working measures taken to mitigate the impact of the COVID-19 pandemic have resulted in fundamental procedural changes in the dispute resolution process.
- Perhaps the most significant of these has been the **introduction of virtual hearings** to ensure that legal proceedings can continue in a safe manner, this has brought about **more flexibility and convenience**.
- In South Africa, the courts and other institution have not only provided various guidelines and protocols for virtual hearings, but are opposing objections to these in cases where, for example, the matter is not *“of such complexity that oral evidence could not conveniently be heard remotely.”*
- Arbitration virtual hearings can also be effective. However, there can be **some challenges** in relation to loss of picture/sound occasionally as well as **stoppages in proceedings due to technical glitches and in our current context most importantly access to and understanding of technology by participants**



- Future developments will likely include seamless end-to-end e-filing and case management systems, and encrypted video conferencing platforms.



# Analytics in the selection of tribunals, arbitrators, mediators and/or counsels

SIDRA Survey indicated that good ethics, dispute resolution experience and efficiency are the most important factors in their selection of arbitrators.



1

Good Ethics

2

Dispute Resolution Experience

3

Efficiency

# Embracing digital transformation

**Security, privacy and data concerns cannot be ignored.**

**Organisations and parties to the dispute should consider the following when incorporating technology:**



In order to incorporate the right tools, organisations need to have clear objectives. While some tools may be widely adopted, they might not be the most suitable ones given their specific limitations.



Parties have to understand the functionality and limitations of LegalTech tools. They should agree on the tools to be used as well as when they can be used in the process.



Security of the videoconferencing platforms has to be ensured.



The parties should determine the territorial scope of the dispute and applicable security, privacy and data protection laws early, especially when online or cloud based storage systems are to be used.

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# Conclusion

Technology comes with benefits and challenges. Understood in the context of these the benefits of their use should prevail over standard proceedings, with suitable adaptations for the specifics of each use case.

<https://www.pwc.co.za/en/publications/international-trends-in-dispute-resolution.html>

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# THANK YOU

**ngiyathokoza!**

**ro livhuwa!**

**dankie!** **ke a leboga!**

**enkosi!**

**inkomu!**

**thank you!**

**udo livhuwa!**

**ke a leboga!**

**ngiyabonga!**

**siyabonqa!**