

MANAGING EMOTION, CONFIDENTIALITY AND NEUTRALITY IN TECH-MEDIATED SPACES: HUMAN INTEGRITY IN DIGITAL DISPUTE ENVIRONMENTS.

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“Emotion cannot be digitised, but it can be honoured. Confidentiality cannot be presumed, but it can be designed. Neutrality cannot be perfect, but it can be human.”

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The Algorithm and the Empath

“Emotion in tech mediation is both less visible and more volatile—it slips past the screen, yet saturates the air.”

In the quiet sanctity of a traditional mediation room, a human presence holds space for tension, grief, misunderstanding, and hope. That presence—calm, observant, emotionally intelligent—has long been the silent architecture of conflict resolution. Yet, in the twenty-first century, this architecture is being redrawn. The mediator no longer occupies a physical seat between parties; instead, they mediate across screens, through platforms, amidst metadata, and under protocols governed by algorithms. In this digital theatre, human gestures are pixelated, silences are flattened, and the emotive texture of mediation is altered.

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The shift is not merely technological but existential: mediation, once anchored in embodied presence, is now translated into a hybrid encounter where affect travels through bandwidth and trust is recalibrated in code. Legal theorists have emphasised that online dispute resolution (ODR) does not simply replicate physical processes but reconstitutes them within new epistemic frames. Katsh and Rabinovich-Einy note that digital justice is less about tools and more about reshaping legal consciousness itself.¹ Similarly, Susskind argues that technology does not just change the means of professional practice; it questions the necessity and authority of professionals altogether.²

Within this context, the mediator emerges as both empath and algorithmic interpreter, curating an environment where human dignity must resist being obscured by technological mediation. The prologue therefore sets the stage for examining three interwoven dimensions—emotion, confidentiality, and neutrality—that are increasingly volatile in the digital terrain of dispute resolution. If the human face once functioned as the guarantor of trust, in tech-mediated environments trust must be architected, coded, and continually re-negotiated. As such, the mediator becomes not merely a facilitator of dialogue but a custodian of presence in an environment where presence itself is uncertain.

Mapping the Territory: Digital Dispute Spaces and Their Emerging Norms

“In virtual mediation, confidentiality is no longer spatial—it is architectural, woven into code, not walls.”

Digital mediation is no longer peripheral; it is rapidly becoming an entrenched component of contemporary dispute resolution. Platforms such as Modria, Matterhorn, and the United Nations’ UNCITRAL Technical Notes on Online Dispute Resolution 2017 have institutionalised technology-based mechanisms as a legitimate alternative to conventional forms of mediation and arbitration.³ Even national jurisdictions have embraced this trajectory: the United Kingdom has integrated online courts and digital

¹ Ethan Katsh and Orna Rabinovich-Einy, *Digital Justice: Technology and the Internet of Disputes* (Oxford University Press 2017).

² Richard Susskind and Daniel Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts* (Oxford University Press 2015).

³ UNCITRAL Technical Notes on Online Dispute Resolution (United Nations 2017) A/RES/71/138 – PDF.

pre-trial processes,⁴ while countries like Nigeria have incorporated provisions for technology-assisted mediation in the Arbitration and Mediation Act (AMA) 2023.⁵ What began as a pragmatic adaptation during the Covid-19 pandemic has now evolved into a permanent restructuring of the justice landscape.

The AMA marks a jurisprudential shift by embedding digital mediation within statutory law. While section 74 expressly validates electronic communication between mediators and parties, related provisions such as sections 71–73 are drafted in technology-neutral terms, ensuring that limitation periods, mediator appointments, and procedural safeguards apply equally in virtual or physical formats. The AMA affirms that mediation no longer depends on physical presence but on the integrity of the process itself.⁶ Law's legitimacy is thereby relocated from the room to the digital channel, displacing geography but not fairness. As the author suggests, when the law moves online, the measure of justice is not whether the room has disappeared, but whether the promise of fairness remains visible.

Yet, this shift is not merely logistical; it is ontological. The migration of dispute resolution from physical to digital space reconstitutes the very conditions of trust, empathy, and authority. In traditional mediation, the mediator's physical presence conferred authority, while the contained room served as a sanctuary of confidentiality. In digital spaces, however, authority and trust are mediated through platforms, interfaces, and algorithms. The mediator becomes an interface as much as a presence, while trust emerges as a form of ambient confidence in systems whose underlying structures are often opaque.⁷ Katsh and Rabinovich-Einy suggest that this transformation marks the birth of a "new legal consciousness," one in which digital environments actively shape the expectations, behaviours, and assumptions of disputants.⁸

⁴ Susan Acland-Hood, 'Reforming Courts through Technology' (2019) *Civil Justice Quarterly* 38(3) 280.

⁵ Sections 68, 70-74 Arbitration and Mediation Act 2023.

⁶ UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation 2018 UN Doc A/73/17, Annex II.

⁷ Ethan Katsh and Orna Rabinovich-Einy [n1] 2.

⁸ *Ibid.*

Crucially, technology alters not only how disputes are conducted but also who may access resolution mechanisms. Digital platforms democratise access by reducing geographical barriers and costs, enabling participation across borders and time zones.⁹ For example, eBay's dispute resolution system has handled millions of claims, most without human intervention, demonstrating the capacity of ODR to resolve disputes at scale.¹⁰ However, this expansion of access disrupts foundational assumptions about privacy, empathy, and control. A party joining a mediation from a noisy café or a home shared with others cannot rely on the controlled seclusion of a mediation chamber; similarly, emotions may be flattened or distorted through unstable connections or camera filters.

These tensions are compounded by the role of algorithmic interventions. Platforms increasingly provide automated nudges, default settings, or settlement suggestion tools, all of which influence party behaviour.¹¹ While these features may enhance efficiency, they also risk embedding biases or privileging certain outcomes. As Susskind and Susskind note, technology does not merely assist professionals but increasingly competes with and sometimes replaces them.¹² In digital mediation, this raises an ethical challenge: mediators must balance the democratisation of access with vigilance against the invisible architectures of influence built into platforms.

Thus, mapping the terrain of digital dispute resolution requires recognising that the mediator's identity is no longer defined solely by facilitation but by curating digital experiences, interpreting emotional cues across technological barriers, and safeguarding ethical integrity in systems partially beyond their control. The mediator is not only a professional actor but a translator between human affect and machine logic.

⁹ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* (Routledge 2011).

¹⁰ Colin Rule, *Online Dispute Resolution for Business: B2B, E-Commerce, Consumer, Employment, Insurance, and Other Commercial Conflicts* (Jossey-Bass 2002).

¹¹ Cass Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness* (Yale University Press 2008).

¹² Richard Susskind and Daniel Susskind [n2] 2.

Managing Emotion: The Disappearing Body and the Amplified Affect

“Emotion in tech mediation is both less visible and more volatile—it slips past the screen yet saturates the air.”

Emotion is the marrow of mediation: the unspoken undercurrent beneath overt positions and claims. In traditional, face-to-face mediation, emotion is embodied and observable. Mediators learn to read micro-expressions, subtle shifts in posture, tone inflections, or the rhythm of silence, all of which provide a textured map of the parties’ inner states.¹³ These cues allow mediators not only to detect tension but to contain, de-escalate, and re-channel affect towards constructive dialogue.

In technology-mediated environments, however, this embodied presence is disrupted. Video conferencing introduces latency that obscures hesitation, while camera angles and screen resolution distort non-verbal communication.¹⁴ Furthermore, “Zoom fatigue” and the cognitive overload of online platforms diminish participants’ ability to remain emotionally attuned.¹⁵ The absence of the physical room means that empathy, once facilitated by shared presence, is flattened into pixels. Hazel Genn has argued that justice is experienced as much as it is delivered: it must be “felt” to be legitimate.¹⁶ Online mediation threatens this felt experience by muting the sensory and affective channels through which parties perceive recognition.

Paradoxically, digital platforms can also intensify emotional dynamics. Psychologists have identified the “online disinhibition effect,” where parties feel emboldened to express anger, hostility, or grief more openly than in person, due to the relative safety and semi-anonymity of the screen.¹⁷ Text-based communication exacerbates this by stripping away tonal nuance, making sarcasm, humour, or empathy easily misinterpreted. Private chat functions, meanwhile, can serve as accelerants of polarisation rather than tools of reflection, as they allow emotions to circulate unchecked

¹³ Geraldine Nagy, ‘Non-Verbal Communication in Mediation’ (2017) 33(1) Negotiation Journal 57.

¹⁴ Ethan Katsh and Orna Rabinovich-Einy [n1] 2 at 142–45.

¹⁵ Jeremy N Bailenson, ‘Nonverbal Overload: A Theoretical Argument for the Causes of Zoom Fatigue’ (2021) 2(1) Technology, Mind, and Behavior 1.

¹⁶ Hazel Genn, *Judging Civil Justice* (Cambridge University Press 2010) 90–95.

¹⁷ John Suler, ‘The Online Disinhibition Effect’ (2004) 7(3) CyberPsychology & Behavior 321.

outside the mediator's oversight.¹⁸ Anxiety is further heightened by the absence of ambient cues — the quiet reassurance of a nod, the mediator's physical proximity, or the softening gesture of another party may all be lost.

Against this backdrop, mediators must develop new strategies of emotional literacy suited for digital spaces. First, they must refine their capacity to read “digital affect”: subtle pauses, eye movement avoidance, or even the symbolic choices embedded in virtual backgrounds. Secondly, mediators must intentionally create emotional safety, by checking in more frequently, slowing exchanges to match the delayed rhythm of online cognition, and verbally reaffirming presence.¹⁹ Thirdly, while emotion-recognition AI tools have emerged, their use should be cautious; scholars warn that algorithmic readings of facial expressions risk both cultural bias and overconfidence in machine objectivity.²⁰ The human mediator's intuition remains irreplaceable.

Thus, the management of emotion in digital mediation is a paradox of disappearance and amplification: the body recedes but affect floods the space in volatile ways. The mediator must adapt by cultivating digital empathy — the ability to feel across glass — and by embedding affective protocols into the very design of mediation sessions. In so doing, they ensure that justice remains not only a rational settlement but an emotional recognition.

Confidentiality in the Age of Screens: From Room to Cloud

“In virtual mediation, confidentiality is no longer spatial—it is architectural, woven into code, not walls.”

Confidentiality has long been one of the cardinal assurances of mediation. Traditionally, it was underpinned by the physicality of the mediation room: the closed door, the presence of only those authorised, and the tacit understanding that what was said within

¹⁸ Leah Wing and Daniel Rainey, ‘Ethical Principles and Standards for Online Dispute Resolution’ in Mohamed S. Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), *Online Dispute Resolution: Theory and Practice* (2nd edn, Eleven International 2021).

¹⁹ Nadja Alexander, *Mediation: Process and Practice* (2nd edn, LexisNexis 2019) 210.

²⁰ Kate Crawford, *Atlas of AI: Power, Politics, and the Planetary Costs of Artificial Intelligence* (Yale University Press 2021) 85–90.

those walls would remain there. The space itself functioned as a container of trust, anchoring the parties' willingness to disclose sensitive information.

In digital environments, however, the very notion of a "room" is destabilised. A mediation no longer unfolds within a bounded physical enclosure but within the fluid infrastructure of video-conferencing platforms, cloud-based servers, and internet service providers. Confidentiality is therefore no longer a matter of walls and doors but of encryption protocols, firewalls, and terms of service agreements.²¹ The risks are both inadvertent and deliberate: sessions may be recorded with or without consent, screenshots may be captured in seconds, and devices equipped with smart assistants may inadvertently eavesdrop.²² Even metadata—such as login times, IP addresses, and duration of participation—may expose information that parties assume remains private.

The fragility of digital confidentiality is underscored by incidents of platform vulnerabilities. Zoom, for instance, faced scrutiny in 2020 for "Zoombombing" intrusions and weaknesses in its encryption standards.²³ Similarly, Microsoft Teams and other widely adopted tools have been criticised for default settings that allow administrators or third parties to retain access to chat logs and recordings.²⁴ Surveillance capitalism, as Shoshana Zuboff describes it, thrives precisely on the monetisation of the data trails that mediation inevitably generates.²⁵ Thus, the very infrastructure on which mediation now depends is often owned by corporations whose business model may be antithetical to mediation's promise of privacy.

The legal frameworks governing confidentiality in mediation provide guidance but remain uneven across jurisdictions. The European Union's General Data Protection

²¹ Orna Rabinovich-Einy and Ethan Katsh, 'Technology and the Future of Dispute Systems Design' (2014) 17 *Harvard Negotiation Law Review* 151, 165–67.

²² Daniel Rainey, 'Third-Party Ethics in the Age of the Fourth Party' (2014) 1(1) *International Journal of Online Dispute Resolution* 37–56.

²³ Joseph Cox, 'Zoom Security Issues: Zoombombing and Encryption' *Vice* (2 April 2020) <https://www.vice.com/en/article/zoom-security-issues> accessed 28 August 2025.

²⁴ John Villasenor, 'Privacy Issues in Online Conferencing' (2020) Brookings TechStream <https://www.brookings.edu/techstream/privacy-online-conferencing> accessed 28 August 2025.

²⁵ Shoshana Zuboff, *The Age of Surveillance Capitalism* (Profile Books 2019).

Regulation (GDPR) imposes strict obligations regarding data processing and retention,²⁶ yet its enforcement in cross-border online mediation remains fraught. The UNCITRAL Technical Notes on Online Dispute Resolution 2017 recognise confidentiality as a principle but stop short of mandating enforceable safeguards.²⁷ National frameworks, such as Nigeria's Arbitration and Mediation Act 2023, explicitly affirm confidentiality obligations but do not yet fully address cloud-based storage or AI-assisted processes.²⁸ Similarly, the Singapore Convention on Mediation 2019 presumes confidentiality as a baseline for enforceability of mediated settlement agreements but remains silent on the architectural vulnerabilities of digital platforms.²⁹ These gaps reveal a tension: while law anchors confidentiality as a legal duty, technology redefines it as an architectural and procedural design challenge.

In this reconfigured landscape, mediators are no longer merely custodians of process but stewards of data. They must develop literacy in platform security, ensure end-to-end encryption where possible, and transparently disclose to parties the risks of recording, storage, and third-party involvement.³⁰ Consent must be continuously renewed: parties should be informed not only at the outset but at critical junctures when the possibility of recording, transcription, or AI integration arises.³¹ Mediators must also advocate for ethical platform design, where privacy is embedded not as an optional feature but as a default architectural value.

The central paradox is clear: confidentiality in digital mediation cannot be presumed. It must be intentionally designed, vigilantly maintained, and ethically safeguarded. The mediator who neglects this role risks not only undermining trust but also eroding the very legitimacy of the process.

²⁶ Regulation (EU) 2016/679 (General Data Protection Regulation).

²⁷ UNCITRAL Technical Notes on Online Dispute Resolution [n3] 2.

²⁸ Sections 73–76 Arbitration and Mediation Act 2023.

²⁹ United Nations Convention on International Settlement Agreements Resulting from Mediation (adopted 20 December 2018, entered into force 12 September 2020) 58 ILM 1207 (Singapore Convention).

³⁰ International Mediation Institute, 'Code of Professional Conduct' (IMI 2020) <https://imimediation.org> accessed 28 August 2025.

³¹ John W. Cooley and Lela P. Love, 'Midstream Mediator Evaluations and Informed Consent' (2008) 14 *Disp. Resol. Mag.* 11 available at <https://larc.cardozo.yu.edu/faculty=articles/282>.

Neutrality in Mediated Interfaces: The Machine in the Middle

“Neutrality in tech-mediated spaces is not absence of influence—it is intentional balance in an already-coded terrain.”

Neutrality is the invisible thread that sustains trust in mediation. Traditionally, it has meant that the mediator does not privilege either party, has no stake in the outcome, and structures the process to ensure equidistant empathy.³² This principle was underpinned by the mediator’s physical presence, their capacity to project impartiality through body language, tone, and process control. In digital environments, however, neutrality is no longer solely a matter of human conduct: it is refracted through technological infrastructures that are themselves neither neutral nor inert.

Platforms mediate experience. Interface design, default settings, and algorithmic nudges exert subtle yet powerful influence over party behaviour.³³ The placement of buttons, the order of speaking turns, or the availability of breakout rooms can advantage one party over another.³⁴ What appears as a neutral digital frame may, in fact, encode implicit biases derived from design choices, coding assumptions, or commercial incentives. Virginia Eubanks has shown how automated systems often replicate structural inequalities, embedding them invisibly into decision-making processes.³⁵ In mediation, this manifests when AI-assisted platforms generate settlement suggestions based on datasets that reflect historic inequities, leading to outcomes that may systematically privilege certain groups.

Perceptions of neutrality are also challenged by the mediator’s digital embodiment. Video quality, bandwidth, and virtual backgrounds all shape how parties perceive authority and impartiality. A party with poor internet connectivity may appear hesitant or disengaged, through no fault of their own, while another with high-definition

³² Laurence Boulle and Nadja Alexander, *Mediation: Skills and Techniques* (LexisNexis 2015) 102–03.

³³ Colin Rule and Amy Schmitz, *The New Handshake: Online Dispute Resolution and the Future of Consumer Protection* (American Bar Association 2017) 89–92.

³⁴ Pablo Cortés, ‘Regulatory Developments in Mediation and in Technology Supported Mediation Schemes in the UK’ (2017) 23(8) *Computer and Telecommunications Law Review* 208–212.

³⁵ Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor* (St Martin’s Press 2018).

equipment and professional surroundings may seem more credible.³⁶ Even accent recognition by automated transcription tools can privilege speakers of dominant languages, subtly tilting the discursive balance.³⁷ Neutrality in this context becomes entangled with digital literacy and socio-economic disparities in access to technology.

The rise of algorithmic co-mediators compounds the issue. Platforms now offer predictive analytics and settlement-suggestion engines that purport to increase efficiency.³⁸ While such tools may reduce deadlock, they also risk distorting neutrality by subtly steering parties towards outcomes privileged by the algorithm's training data. Cass Sunstein's theory of "choice architecture" reminds us that the way options are framed can decisively influence decisions.³⁹ In ODR systems, the "machine in the middle" is never a neutral observer; it is an active shaper of party behaviour.

Against this backdrop, the ethics of interface design become integral to the practice of mediation. Neutrality is no longer the mere absence of bias; it is the deliberate balancing of influence in a terrain already coded with predispositions.⁴⁰ Mediators must therefore disclose the limitations of platforms, encourage "process consent" at critical stages, and provide opt-out alternatives when technological bias becomes apparent.⁴¹ Moreover, institutions have an obligation to conduct regular bias audits of digital tools, ensuring that neutrality is embedded architecturally rather than presumed.⁴²

³⁶ Noam Ebner, 'The Human Touch in ODR: Trust, Empathy, and Social Intuition in Online Negotiation and Mediation' in Mohamed S Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), *Online Dispute Resolution: Theory and Practice* (2nd edn, Eleven International 2021).

³⁷ Kate Devlin, *Turned On: Science, Sex and Robots* (Bloomsbury 2018) 154–58.

³⁸ Orna Rabinovich-Einy and Ethan Katsh, 'Artificial Intelligence and the Future of Dispute Resolution – The Age of AI-DR' in Mohamed S Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), *Online Dispute Resolution: Theory and Practice* (2nd edn, Eleven International 2021).

³⁹ Cass R Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness* (Yale University Press 2008).

⁴⁰ Mireille Hildebrandt, *Smart Technologies and the End(s) of Law: Novel Entanglements of Law and Technology* (Edward Elgar 2015) 210–13.

⁴¹ International Mediation Institute, 'Ethical Standards for Mediators in Digital Contexts' (IMI 2022) <https://imimediation.org> accessed 28 August 2025.

⁴² Council of Europe, Recommendation CM/Rec(2021)2 on the Development and Use of Artificial Intelligence in Legal Systems (adopted 16 April 2021).

Ultimately, neutrality in tech-mediated spaces is a re-engineered virtue. It demands vigilance not only from mediators but from platform designers, regulators, and institutions. The mediator must navigate a paradox: while they remain the human face of impartiality, the systems they operate within may constantly recalibrate the perception of neutrality in ways neither visible nor fully controllable. The ethical task, then, is not to preserve neutrality as absence, but to reconstruct it as intentional balance within an already-influential digital environment.

Harmonising the Three: A New Ethics for Mediators in the Digital Age

“The post-human room is not empty. It is full of decisions we must make—about the kind of justice we want to see reflected not just in our mirrors, but in our screens.”

Mediation in technology-mediated environments is not a simple transposition of practices from the physical room to the digital screen; it is a transformation of both process and ethics. The foundational pillars of mediation—emotion, confidentiality, and neutrality—cannot be treated as isolated variables but must be reconfigured as interdependent dimensions of a new architecture of trust. Each pillar shapes and is shaped by the others: emotional safety enhances the perception of neutrality; confidentiality safeguards emotional candour; neutrality ensures confidentiality is equally respected and that emotions are not manipulated. Together, they constitute an ecology of integrity, whose preservation in digital spaces requires more than professional skill: it requires a new ethics.

This ethics must be simultaneously relational, architectural, and procedural. Relational, because mediation remains anchored in human presence, even when disembodied. Parties must still feel “seen” and “heard,” and mediators must embody affective sensitivity across technological barriers.⁴³ Architectural, because digital platforms are not passive tools but active environments whose design either strengthens or erodes trust.⁴⁴ Procedural, because the safeguards of confidentiality, fairness, and consent must be

⁴³ Sarah R. Cole, Craig A. McEwen, Nancy H. Rogers, James R. Coben, Peter N. Thompson and Nadja M. Alexander, *Mediation: Law, Policy & Practice* (Thomson Reuters, New York 2023).

⁴⁴ Mireille Hildebrandt [n39] 10 at 230–33.

woven into the iterative stages of mediation, renewed at each moment where digital risk emerges.

The mediator of the digital age is thus not merely a facilitator of dialogue but a hybrid professional: a digital ethicist, a data steward, and an emotional anchor.⁴⁵ They must be literate not only in the language of conflict but also in the infrastructures of platforms, encryption protocols, and algorithmic bias. Training programmes must evolve accordingly. Institutions such as the International Mediation Institute (IMI), the Centre for Effective Dispute Resolution (CEDR), and the Chartered Institute of Arbitrators (CI Arb) must embed modules on digital emotional intelligence, platform ethics, and bias-aware design into their credentialing frameworks.⁴⁶ Without such reforms, mediators will remain vulnerable to the invisible logics of the platforms they operate within.

Equally, institutional trust must be reimagined. Where once the closed mediation room sufficed as a symbol of security, digital mediation demands visible assurances: transparency about platform risks, co-design of sessions with parties, and real-time feedback loops that empower participants to flag technological or emotional discomfort.⁴⁷ Mediators must normalise the disclosure of AI involvement, explain how metadata is stored, and offer alternative modalities (such as reverting to phone calls) when technology threatens fairness.⁴⁸ Trust in digital mediation is not a static presumption; it must be cultivated through deliberate practices of openness, consent, and adaptability.

⁴⁵ Ethan Katsh and Orna Rabinovich-Einy, *Digital Justice: Technology and the Internet of Disputes* (Oxford University Press 2017) 171–80.

⁴⁶ International Mediation Institute, 'Digital Competency Framework for Mediators' (IMI 2022) <https://imimediation.org> accessed 28 August 2025; CEDR, 'Mediator Skills Training' (CEDR 2023) <https://www.cedr.com> accessed 28 August 2025; CI Arb, 'Practice Guidelines on Online Dispute Resolution' (CI Arb 2022).

⁴⁷ Leah Wing, 'Designing Ethical Online Dispute Resolution Systems: The Rise of the Fourth Party' (2021) 37 (1) *Negotiation Journal* 49-64 available at <https://doi.org/10.1111/nejo.12350> accessed 28 August 2025.

⁴⁸ Amy J Schmitz, 'Expanding Access to Remedies through E-Courts Initiatives' (2019) 67 *Buffalo Law Review* 89; Amy J Schmitz, 'Measuring Access to Justice in the Rush to Digitize' (2020) 88 (6) *Fordham Law Review* 2381.

At a meta-level, this harmonisation of emotion, confidentiality, and neutrality signals a paradigmatic shift: the ethics of mediation are no longer confined to the conduct of the mediator but extend to the architectures and codes within which mediation occurs.⁴⁹ In this sense, mediation becomes a site of resistance to the reduction of justice to mere efficiency or algorithmic prediction. It insists on the irreducibility of human presence, even as presence itself is mediated by technology. The future of mediation depends not simply on adopting digital tools, but on embedding a human code into the post-human room, an ethic of intentionality, relational courage, and architectural justice.

Toward a Human Code for the Post-Human Room

“The post-human room is not empty. It is full of decisions we must make—about the kind of justice we want to see reflected not just in our mirrors, but in our screens.”

As the boundaries between human and machine, presence and interface, room and code continue to blur, mediation faces its most profound transformation since its institutionalisation. This paper has traced how the three foundational pillars of the practice—emotion, confidentiality, and neutrality—are destabilised and reconstituted in digital environments. Each pillar, once grounded in the proximate human encounter of the mediation room, now operates in a reconfigured terrain where gestures are pixelated, trust is architectural, and neutrality is refracted through algorithms.

Yet, this transformation is not reducible to loss. If the digital environment erodes certain forms of presence, it also generates new opportunities for accessibility, creativity, and re-imagined ethical practice. Mediation’s strength has never resided solely in its procedures but in its capacity to embody trust, recognition, and fairness in contexts where law alone cannot suffice. The challenge, therefore, is not to preserve mediation as it was, but to cultivate it anew in forms that remain faithful to its spirit while responsive to its altered medium.

The new ethics demanded by tech-mediated mediation is, at its core, an ethic of intentionality. Emotion must be honoured even when it is digitally disembodied,

⁴⁹ Shoshana Zuboff, *The Age of Surveillance Capitalism* (Profile Books 2019) 356–61.

requiring mediators to practise new forms of affective literacy. Confidentiality must be designed rather than assumed, requiring architectural safeguards, renewed consent, and active transparency. Neutrality must be reimagined as deliberate balance in a coded terrain where no platform is ever without influence. Together, these commitments form the scaffolding of a “human code” capable of guiding mediation in the post-human room.⁵⁰

This human code does not reject technology but resists the temptation to surrender mediation’s soul to efficiency, automation, or convenience. It affirms that the legitimacy of mediation lies not only in agreements reached but, in the dignity, upheld throughout the process. The post-human room is thus not a void emptied of presence; it is a contested space full of decisions about the kind of justice we want to author in our digital age. To accept this responsibility is to embrace mediation not as a practice diminished by technology, but as one deepened by the courage to weave human integrity into its architectures.

⁵⁰ Mireille Hildebrandt [n39] 10 at 278–81; Ethan Katsh and Orna Rabinovich-Einy [n44] 11.