

## RESOLVING CONFLICTS IN THE DIGITAL AGE: THE FUTURE OF ONLINE DISPUTE RESOLUTION

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**Badal Yadav\***

### ABSTRACT

*Online dispute resolution (ODR) has transformed conflict resolution methodologies in the digital age. This journal article investigates technology's transformative power in providing accessible, efficient, and cost-effective dispute resolution. It investigates the evolution of alternative dispute resolution platforms, such as automated negotiation tools and algorithm-driven mediation processes, as well as their impact on traditional legal systems. The article also investigates the challenges and opportunities presented by ODR in ensuring fairness, privacy, and impartiality in a virtual environment. It assesses the use of ODR by institutions, governments, and businesses, taking into account the implications for improving access to justice and reducing the burden on overburdened judicial systems. The article delves into the effectiveness of alternative dispute resolution mechanisms in a variety of contexts, including e-commerce, consumer disputes, and international arbitration. It examines the ethical and regulatory dimensions of ODR, addressing concerns about data security, confidentiality, and human intervention. The transformative potential of ODR as a key tool in modern conflict resolution reshapes traditional legal paradigms, ushering in a new era of dispute resolution tailored to the digital landscape.*

**Keywords:** Online Dispute Resolution (ODR), Conflict Resolution, Technology, Alternative Dispute Resolution (ADR).

### INTRODUCTION

**“If time be of all things the most precious, wasting time must be the greatest prodigality”  
-Benjamin Franklin (Founding Father of the USA)**

The challenge of conflict resolution in India is a serious problem, requiring an alternative search for state intervention. Conflict is present in every society, but it needs to be resolved systematically. There is a need to find solutions intelligently and intuitively to minimize state

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\*BA LLB, FOURTH YEAR, MAHARAJA AGRASEN INSTITUTE OF MANAGEMENT STUDIES.

interference. Along with making convenient and necessary rules, there is also a need to encourage people to settle their disputes without making noise. The justice system can be speeded up by spreading awareness in society and through technological advancement. This will encourage an alternative and proactive search in the process of justice communication, which will ensure the resolution of problems.

There is a need to accelerate the search for alternative conflict resolution to build a harmonious and equal society. Exploring innovative approaches like mediation and restorative justice can help foster dialogue, empathy, and mutual understanding among conflicting parties.

Due to the increasing pendency of cases and the delayed delivery of justice in India, the judicial system remains a challenge. The total number of cases initiated in the year 2022 is 2,29,78,911.<sup>1</sup> These staggering numbers highlight the immense burden placed on the judicial system in dealing with conflict resolution.

More than 4.32 crore cases are reported to be pending, especially in subordinate courts, which account for more than 85 percent (4,28,21,378) of total pending cases<sup>2</sup>. After the subordinate courts, the High Court accounts for more than 11 percent (65 lacks) of total pending cases and more than 69000 cases are pending in Supreme Court<sup>2</sup>. The backlog of cases not only burdens the judicial system but also hampers access to justice for the citizens. This figure is alarming and highlights the need for judicial system reform. At the highest level, coordinated efforts are required to streamline the legislative and judicial processes.

## THE EVOLUTION OF CONFLICT RESOLUTION

In Indian culture, ADR (Alternative Dispute Resolution) is a distinctive way to begin an out-of-court settlement. Every day, new cases are filed in court, allowing the judiciary to operate as efficiently as possible while also having an opportunity to settle disputes through ADR and reach a decision without the assistance of the court. This approach is traditional in Indian society and culture and is still used in rural India through the Panchayat system<sup>3</sup>.

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<sup>1</sup> National Judicial Data Grid,( Year 2022), available at [https://njdg.ecourts.gov.in/njdgnew/?p=main/pend\\_dashboard](https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard)

<sup>2</sup> 'Nearly 5 Crore Pending Cases In Courts, Over 69,000 In Supreme Court', NDTV (9 February 2023)

<sup>3</sup> S. Chaitanya Shashank and Kaushalya T. Madhavan, 'ADR in India: Legislation and Practices', Lawctopus, available at <https://www.lawctopus.com/academike/arbitration-adr-in-india/>

ADR is used to settle conflicts outside of the courtroom. The ADR system was mentioned in the works of great Indian philosophers and political thinkers like Yajnavalkya and Narada in the past, who described Kula and Shreni tribunal for dispute resolution<sup>3</sup>. The ADR method has its roots in antiquity and is still practiced in rural areas to assist in settling small social disputes. For resolving conflicts within or between large or small families, community structures, and rural communities, ADR is viewed as a natural and effective method.

The prevalence of Puga, Shreni, and Kula tribunals in Indian society has been the subject of extensive research<sup>3</sup>. Understanding these various sects', eateries', and tribes' perspectives was crucial. Puga was a tribunal made up of residents from the same neighborhood who belonged to various sects<sup>3</sup>. Its main goal was to restore their relationship with their sect and the sect's mosque.

What we now know as commercial arbitration originated in the significant and long-standing Indian judicial institution known as the Shreni Tribunal. The Puga Tribunal was the institution's predecessor, a powerful tribunal with the authority to overturn Kula and Sreni's decisions<sup>3</sup>. A final appeal was permitted to the king, and its decisions were subject to challenge before the Pradvivaka. The Pradvivaka was a council of experienced advisors and legal experts who reviewed the decisions made by the king. They ensured that the final appeal process was fair and just, providing an opportunity for any potential errors or biases to be addressed.<sup>3</sup>

**Hussainara Khatoon vs. Home Secretary State of Bihar<sup>4</sup>:** The Hussainara Khatoon case highlighted the issue of prolonged detention without trial, emphasizing the need for a timely resolution of disputes. In this case, the court opined that: “The State is under a constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the State. It is also the constitutional obligation of this Court, as the guardian of the fundamental rights of the people as a sentinel on the qui-vive, to enforce the fundamental right of the accused to speedy trial by issuing the necessary directions to the State which may include taking of positive action”<sup>4</sup>. Online dispute resolution mechanisms can offer an alternative avenue for individuals to seek justice, potentially reducing delays and improving access to legal remedies.

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<sup>4</sup> Hussainara Khatoon and Ors. v. Home Secretary, State of Bihar 1979 AIR 1369, 1979 SCR (3) 532.

## UNDERSTANDING ALTERNATE DISPUTE RESOLUTION (ADR)

Alternative dispute resolution (ADR) is an alternative dispute resolution procedure that complements conventional judicial procedures and offers a collaborative approach to resolving disputes. ADR aims to promote communication, understanding, and compromise between parties involved, leading to quicker and more cost-effective resolutions compared to traditional litigation. It allows for more flexibility in tailoring solutions that meet the specific needs and interests of the parties involved. ADR is a potential alternative strategy for fair dispute resolution, but it often does not replace litigation as a means of resolving disputes.

The effectiveness, utility, and difficulties of ADR in the Indian context are examined as follows: In India, the use of ADR to resolve disputes is still perceived as lacking. The American Arbitration Association and International Center for Alternative Dispute Resolution (ICADR) handled 10,273 cases up until 2022<sup>5</sup>. The Singapore International Arbitration Center (SIAC) handled 357 new cases in the year 2022<sup>6</sup>. The question of whether ADR is fully accepted and adaptable in the Indian context arises due to the difference in the number of cases handled. Acceptability and adaptability are more crucial in this situation than efficiency when using ADR. Many people and business organizations prefer to use conventional legal processes due to a possible lack of awareness of the goals and advantages of ADR in India. To raise awareness of the procedure and advantages of ADR among different lawyers, litigants, and local litigant communities, a communication and awareness program through education and training needs to be conceptualized. In 2017, a high-level committee headed by Justice B.N. Srikrishna submitted a report to review the institutionalization of arbitration in India, leading to the 2019 amendments to the Arbitration and Conciliation Act<sup>7</sup>. The report claims that there are few reliable arbitral institutions in India and that the general public has misconceptions about institutional arbitration. The government does not support these institutions due to a lack of interest. A judicial attitude toward arbitration and an expert arbitration bar is also necessary. The government should adopt a positive attitude to improve the institutionalization of arbitration institutions and be connected to the expert arbitration bar to increase public awareness of the arbitration process and give it more credibility. In 2020, the Indian judiciary

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<sup>5</sup> Kathryn E. Bettini, Lawrence G. Scarborough, Desmonne Alana Bennett, '2022 Arbitration Trends from AAA and ICDR', Faegre drinker, available at <https://www.faegredrinker.com/en/insights/publications/2023/4/2022-arbitration-trends-from-aaa-and-icdr#:~:text=Despite%20the%20increase%20in%20caseload,to%20%243.2%20billion%20in%202021.>

<sup>6</sup> 'SIAC Announces 2022 Statistics; Q1 2023 Sees High Filing', Singapore International Arbitration Centre.

<sup>7</sup> Anubhav Yadav, 'Institutional Arbitration: Need of the Hour', The Times of India (3 August 2021)

faced challenges due to the pandemic and the need for self-inculcation to protect itself from enemies. The Indian judicial system has quickly and efficiently shifted from its old-school approach to a new technological approach, with e-filing being an important aspect of this shift. However, the Indian Judiciary will need to face new challenges and measures to make the functioning of the Judiciary smooth and effective in the future.

### **UNDERSTANDING THE ONLINE DISPUTE RESOLUTION (ODR)**

ODR is a brand-new mechanism that stands for a fresh approach to online dispute resolution. It entails transferring different dispute processes to an online platform, which is analogous to virtual court hearings. This mechanism offers a variety of options to settle disputes, including ombudsman, complaints board, negotiation, conciliation, arbitration, facilitative settlement, arbitration, and other methods. It expands the options and offers a reliable option for resolving conflicts. ODR is frequently used to resolve disputes in a variety of contexts, including commercial disputes, real estate issues, and property matters. ODR is crucial to hybrid processes because it combines online and offline components, facilitating quicker and more efficient problem-solving.

ODR is also being considered a viable option in the situations like pandemic, where maintaining physical distance is essential. It makes dispute resolution simple and comfortable, lowering the possibility of protracted delays in the legal system. In addition to assisting individuals in resolving their conflicts, it also advances the modernization of the judicial system. ODR has opened up new possibilities in the field of dispute resolution, which may be good for society's advancement. As a result, ODR is a tool that aids in conflict resolution and updates the legal system.

ODR (Online Dispute Resolution) was created to bring the dispute resolution procedure to a virtual judicial platform. This technology was still in its infancy in India, but the COVID-19 pandemic has increased its significance. Its main benefit is that neither party needs to be physically present for it to work. To communicate with their arbitrators, mediators, or negotiators, both parties to the dispute can use this platform from the convenience of their home or place of business. ODR is very well-liked for dispute resolution in cross-border business transactions due to its specialization<sup>8</sup>. On this online platform, people from various nations can

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<sup>8</sup> Woojong Kim, 'Critical Evaluation of the Online Dispute Resolution for Cross-Border Consumer Transaction Under E-Commerce', SSRN, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2853303](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2853303)

easily settle their differences without a fight. While traveling to pricey and opulent conference rooms is not necessary for the resolution of disputes, one or both parties must go to the place designated as the arbitration's seat.

The ODR process has aided in the resolution of disputes and made it possible for disputes to be settled more quickly and fairly. Its ability to be used remotely from a nearby office or home saves time, money, and hassle for users.

ODR (Online Dispute Resolution) not only lowers the cost of litigation, but also the costs associated with it, such as travel, lodging, and venue, and it yields results quickly. ODR may prove to be a helpful tool in situations where the parties' sensitivity levels may cause issues when they are in the same room together, such as in matrimonial disputes. Since disputes can be settled from any place, the parties have the opportunity to settle them quickly and securely through this method. The ODR process promotes a sense of sensitivity and security from the perspectives of privacy and security because it is a private virtual platform to which only individuals involved in dispute resolution are granted access.

A prime example of ODR can be eBay, which has been courting controversy since 1999 as an online marketplace<sup>9</sup>. eBay has provided an internal system that assists the parties to a transaction to resolve disputes online. More than 60 million disputes are resolved each year through this system, which is similar to the total annual volume of cases filed in all US civil courts<sup>9</sup>. It clearly shows what ODR can do in the area of capacity and communication capability, as well as empowering parties to resolve their disputes faster in terms of the number and capacity of disputes.

### **CHALLENGES FOR ODR**

ODR might be a good solution, but it would be wrong to downplay its flaws. According to Stephen Hawkins, "One of the premises of the universe is that nothing is perfect." In India, a major barrier to using digital media for dispute resolution is digital illiteracy. Although the literacy rate in India is around 77.7 percent it lacks digital literacy<sup>10</sup>. In vast India, the majority of people reside in rural and semi-urban areas, where there is a particular lack of internet

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<sup>9</sup> 'Online Dispute Resolution', Resolution System Institute, available at <https://www.aboutrsi.org/special-topics/online-dispute-resolution>

<sup>10</sup> Sanjay Sharm, 'International Literacy Day 2022 theme, significance and & history', Times of India (8 September 2022)

connectivity and knowledge of digital devices. The challenging aspects of digital illiteracy in this developing country must be addressed for ODR to be successful, and solutions must be created with this in mind.

ODR is a system that well-educated city dwellers use, but there are some issues with it as well. The ODR process might leave one feeling disconnected and unwelcome, which could in some cases prevent parties from communicating effectively while resolving disputes. Additionally, ODR deprives the plaintiff of the sense of a personal touch, as if someone is speaking to them directly on the screen. The use of ODR in India faces significant challenges related to internet connectivity. It is impossible to predict when internet connectivity might suddenly stop, for example, because of a storm or violent lightning. In such a scenario, there may be a communication issue that interferes with an ODR meeting, and security may also be compromised. We can assume that ODR is located in a sensitive area where internet access restrictions and technical difficulties have an adverse effect. There may be riots in the area the day before one's ODR meeting, and the government may severely restrict communication routes. No right, however, is absolute because each one is subject to some sane limitations. As a result, it can be difficult for residents of ODR's sensitive areas to deal with internet access interruptions and technical difficulties. These kinds of technical issues, like having a bug or virus because one's device suddenly stop working, can be especially detrimental in this system. Therefore, we must comprehend the technical issues arising in this delicate area of ODR and come up with solutions to deal with them.

Through research on Indian cyber security platforms, we can learn that cybercrime poses a serious threat to ODR<sup>11</sup>. Cyber-attacks and cyber security pose a significant threat to online dispute resolution (ODR) platforms. These attacks can compromise the confidentiality, integrity, and availability of the information exchanged during the resolution process<sup>11</sup>. Additionally, they can undermine the trust and credibility of ODR systems, discouraging users from participating in online dispute resolution due to concerns about data breaches and unauthorized access. Every ODR meeting involves the internet, and there is always a chance that it could be hacked. Even though platforms like Zoom and Microsoft Teams have implemented security measures to protect against cyber threats, ODR practitioners must stay updated on the latest security protocols and best practices<sup>12</sup>. Additionally, Indian cyber security

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<sup>11</sup> Arjun Kapur, 'Cybercrime: A threat to Data Privacy' Live Law (1 March 2023)

<sup>12</sup> Romita Majumdar, 'After zoom, research finds Microsoft Teams vulnerable to cyber attacks', The mint (28 April 2020)

platforms have emphasized the need for strong passwords, regular software updates, and encrypted communication channels to minimize the risk of cyber-attacks during ODR sessions.

## CURRENT STATUS OF ODR

In India, there is currently no specific law on ODR that offers clear instructions for resolving digital disputes. This situation demonstrates the need for legal regulations in India's field of digital dispute resolution.

Despite this, the Indian Evidence Act of 1872 and the Information Technology Act of 2000 both recognize digital evidence and electronic signatures. Particularly, Section 65B of the Indian Evidence Act 1872 talks about the admissibility of electronic records and states that, the Act allows electronic records to be considered documents if certain conditions are met, such as the computer output being produced during a regular period of use, the information is regularly fed into the computer, the computer is operating properly, and the information reproducing or derived from it<sup>13</sup>. The computer output is treated as a single computer, and references to a computer are construed accordingly. Information supplied to a computer is considered supplied in any appropriate form, and information derived from other information is considered derived therefrom by calculation, comparison, or other process<sup>13</sup>.

Several departments and ministries, including the "e-Court Mission," "e-Lok Adalat," and "Ministry of Micro, Small, and Medium Enterprises," have also adopted the Samadhan Portal and the Reserve Bank of India's ODR policies for digital payments, which conveniently support the resolution of disputes<sup>14</sup>. A report by NITI Aayog titled "Designing the Future of Dispute Resolution: ODR Policy Plan for India" has also been published, which emphasizes the need for creative policies for the prevention, prevention, and resolution of disputes through digital mechanisms.<sup>15</sup> This theme emphasizes the requirement for legal regulations in India regarding digital dispute resolution and demonstrates the government's dedication to the process.

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<sup>13</sup> Indian Evidence Act 1872

<sup>14</sup> SAMADHAN PORTAL, Ministry of Labor and Employment, available at <https://samadhan.labour.gov.in/>

<sup>15</sup> HT Correspondent, 'NITI Aayog releases report on online dispute resolution', The Hindustan Times (30 November 2021)



## THE FIFTH SCHEDULE OF THE ARBITRATION ACT AND ITS IMPACT ON THE ADJUDICATION OF BULK FINANCIAL DISPUTES ON ODR PLATFORMS<sup>16</sup>

The Fifth Schedule to the Arbitration and Conciliation Act, 1996 has made a significant contribution to technological advancement in the management of mass disputes in India. The amount in these disputes can range from 20,000 to 100,000, and they typically involve credit card or loan default cases<sup>16</sup>. The Fifth Schedule is made up of 34 items that must be followed regarding conflicts of interest in international arbitration<sup>16</sup>. The Fifth Schedule is intended to promote arbitration's procedural and ethical values, according to Supreme Court rulings. The Supreme Court has also made it clear that the adoption of the Fifth Schedule's ideals of arbitration would result in technological advancements in the management of idealized disputes<sup>16</sup>.

With this effort, the government has improved the handling of mass disputes brought against people or entities looking for financial institution facilities on the ODR platform. According to Supreme Court rulings, more interactive, fair, and fair procedures are being established in the field of arbitration as a result of technological advancements. Thus, the Government has taken a significant step towards technological reform in managing bulk disputes through the Fifth Schedule to the Arbitration and Conciliation Act, 1996 which will help in facilitating the processes of justice and conciliation in the society.

### EXISTING TECHNOLOGICAL INFRASTRUCTURE IN INDIA REGARDING ODR

The Indian judicial system's technological infrastructure has resulted in notable advancements in professionalism and efficiency, ensuring that the justice system is more easily accessible and practical for society's citizens. The National Informatics Centre introduced the computerization of the Supreme Court of India in 1990, marking the beginning of technological change in the Indian judicial system.<sup>17</sup>

The **National Informatics Center Network (NICNET)** has been essential in developing and maintaining the judicial system's technical infrastructure in India. This network has allowed

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<sup>16</sup> Dormaan J Dalal, 'The Fifth Schedule of the Arbitration Act and its impact on adjudication of bulk financial disputes on ODR platforms', *The Bar and Bench* (10 June 2023)

<sup>17</sup>Shalini Seetharam and Sumati Chandrashekar, 'E courts in India: from policy formulation to implementation', *Vidhi*, available at : [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://vidhilegalpolicy.in/wp-content/uploads/2019/05/eCourtsinIndia\\_Vidhi.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://vidhilegalpolicy.in/wp-content/uploads/2019/05/eCourtsinIndia_Vidhi.pdf)

for the integration of all High Courts and the exchange of case information and documents between various courts<sup>18</sup>. The e-filing system has been enabled by NICNET, making it simple for litigants and solicitors to submit documents electronically<sup>18</sup>.

The **LOBIS (List of Business Information System)**, which updates court cases in real-time and includes the status of hearings and judgments, has also been implemented by NIC<sup>19</sup>. As a result, the judicial system will become more transparent and effective as both solicitors and litigants will have access to this information without having to physically visit the courthouse. Additionally, NIC has created mobile apps such as 'M-Governance' that let user's access legal resources from their tablets or smartphones. The way courts function has significantly improved as a result of this technological development, which has also increased the justice system's accessibility and convenience.

'**Project e-Courts**' is an important initiative to enhance judicial productivity both qualitatively and quantitatively<sup>20</sup>. The project aims to make the delivery of judicial services affordable, accessible, cost-effective, predictable, reliable, and transparent. Additionally, this project is delivering "**Litigant's Charter**," a set of effective and timely citizen-centric services that will enhance the justice delivery system.

With this, the "**Integrated Case Management System (ICMS)**" has opened the door for the Indian judicial system to advance another step<sup>21</sup>. The system integrates the Supreme Court and High Courts, enabling seamless e-filing across the nation and streamlining the legal process. The system has helped the justice delivery system become more open, transparent, and productive in addition to increasing efficiency and productivity.

Several initiatives have been put into place in several High Courts, such as Studio e-courts by Patna High Court<sup>20</sup>, including those in Delhi, Punjab, Bombay, Andhra Pradesh, Karnataka, and Allahabad; to make "e-filing" and the production of evidence on electronic platforms

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<sup>18</sup> National Information Center Network, available at <https://www.nic.in/servicecontents/nicnet/>

<sup>19</sup> 'Use of Technology in Judicial Process and Alternative Dispute Resolution' Lawctopus ( 13 November 2015), available at: <https://www.lawctopus.com/academike/use-technology-judicial-process-alternative-dispute-resolution/>

<sup>20</sup> E-committee Supreme Court of India, Information and Communication Technology in Indian Judiciary, available at: <https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/>

<sup>21</sup> 'PM Modi launches Supreme Court's integrated case management system', The Economic Times (10 May 2017)

easier. This advancement in technology has greatly contributed to the convenience of the judicial system, raising access and interest in justice.

**The following are prevalent platforms for Online Dispute Resolution:**

One such ODR platform is "CADRE," which offers a website-based platform to offer traders excellent solutions<sup>22</sup>. To facilitate communication and clarify disagreements, the goal is to convene a one-party forum and come to a resolution through mediation. Notifications are acknowledged via email or WhatsApp when agreed upon, and if the disagreement cannot be resolved by mutual consent between the disputing parties, electronic contact is made via video call. This procedure allows for the quick and effective resolution of disputes because legal decisions are received in 20 to 25 days. One notable company that uses this ODR model is the online home rental startup **NestAway**<sup>22</sup>. Through CADRE, they are resolving tenant and rental agreement disputes.

Another ODR platform that makes high-quality ADR services easily accessible and aids in online dispute resolution is **SAMA**<sup>23</sup>. A total of 10,000 disputes between its customers have been settled by ICICI Bank using the SAMA ODR platform, with payments ranging up to Rs 20 lakh<sup>24</sup>. Another significant example is **CoDR**, which works to quickly and effectively resolve disputes by managing cases online through its Centre for Online Disputes Redressal<sup>24</sup>. **AGAMI** also represents a new system, which seeks to make the process of dispute resolution time-efficient and viable, and thereby encourage a better system of law and justice<sup>24</sup>.

## **FUTURE OF ONLINE DISPUTE RESOLUTION**

An expert committee headed by former Law Secretary TK Vishwanathan has been appointed by the Indian government to review the 1996 Arbitration and Conciliation Act and make recommendations for changes<sup>25</sup>. This committee's goal is to adopt online demurrage conciliation, which would allow for the technological advancement of both the arbitration and conciliation processes. The committee is paying particular attention to how to use cutting-edge

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<sup>22</sup> Indulekha Arvind, 'Online Dispute Resolution is beginning to find takers in India', The Economic Times(12 January 2020)

<sup>23</sup> Karan Singh, 'India: Online Dispute Resolution (ODR): A Positive Contrivance To Justice Post Covid- 19', Mondaq (17 May 2020)

<sup>24</sup> Astitva Kumar, 'India's top Online Dispute Resolution (ODR) startups', ICMR available at: <https://icmrmediation.org/indias-top-online-dispute-resolution-odr-startups-2/>

<sup>25</sup> Aiman J Chishti, 'Union Government Constitutes Expert Committee For Reforms In Arbitration And Conciliation Act', Live Law (14June 2023)

technologies like blockchain, artificial intelligence, machine learning, smart case management, and digital communication infrastructure in the conciliation process. India has distinguished itself as one of the top economies in recognizing the potential of ODR and the contributions of different ODR players at the same time. It appears that the Indian government is committed to rewriting arbitration law in light of technological advancements to usher in a new era.<sup>25</sup>

**Introduction of ODR by SEBI in the Indian Securities Market<sup>26</sup>:** The Securities and Exchange Board of India (SEBI) issued a Circular on July 31, 2023, establishing Online Dispute Resolution (ODR) as the primary method for resolving disputes in the Indian Securities Market<sup>26</sup>. This decision follows the implementation of the Alternative Dispute Resolution Mechanism (Amendment) Regulations, 2023, which significantly changed the dispute resolution clause across various securities market regulations.<sup>26</sup> SEBI ODR Circular outlines the dispute resolution process, including steps, ODR portal, arbitration, conciliation, escalation, timelines, panel selection, and market participants' roles.<sup>26</sup>

The SEBI ODR Circular aims to resolve disputes in securities market transactions through Online Dispute Resolution (ODR) institutions, which can conduct time-bound online conciliation and arbitration. These institutions adhere to the Arbitration and Conciliation Act, of 1996 and utilize online/audio-video technologies. The circular establishes the provisions for choosing and listing ODR institutions, ensuring high-quality standards in their operations. ODR applies to disputes involving investors, clients, listed companies, registered agents, and specified intermediaries or regulated entities in the securities market. Both listed companies and clients can utilize ODR to address unresolved service requests or complaints.<sup>26</sup>

The Circular mandates Market Infrastructure Institutions (MII) to associate with one or more Online Dispute Resolution (ODR) institutions and establish a unified ODR Portal, under the supervision of multiple MIIs. The ODR portal should be connected to the SEBI SCORES portal/SEBI Intermediary portal. Enrollment on the ODR portal is mandatory for all Market Participants, and they must complete the process within a specified timeline. The ODR portal offers user-friendly features, allowing users to file complaints and upload necessary documents. Users are kept informed about the status of their complaints and are directed to an

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<sup>26</sup> George Mathew, 'How the online dispute resolution system announced by SEBI will work', The Indian Express( 7 August 2023)

accredited ODR institution. The allocation of disputes among the impaneled ODR institutions follows a market-wide round-robin system, ensuring fair and equitable distribution.<sup>26</sup>

### **WHAT ARE THE OTHER ODR SYSTEMS ACROSS THE GLOBE?**

Countries around the world have taken significant steps towards technological reform in judicial processes by using ODR platforms.

**United Kingdom:** CASEMAN in the United Kingdom is part of the local county court management system, which facilitates various functions, such as the creation of initial court records, the issuing and monitoring of summons, and the storing of electronic copies of evidence because lists are generated, records are updated, court diaries are maintained, and other relevant documents and records are generated automatically.

**Australia:** Documents can be electronically lodged in the Federal Court of Australia and electronically sealed, or stamped, at any time, from any location.

**Canada:** Canada has launched its online Civil Resolution Tribunal (CRT), which handles property disputes of any amount in the province of British Columbia as well as small claims disputes.

**Rwanda:** Rwanda is using the Electronic Filing System (EFS) to move towards paperless court services.

### **CONCLUSION**

While ODR has proven to be effective in many countries, its acceptance in India may face unique challenges due to cultural and legal differences. It is human nature to resist change and so far traditional methods of ADR have not been accepted. But efforts are being made in this area as well. On June 6, 2020, NITI Aayog in partnership with Agami and Omidyar Network India hosted the first major stakeholder meeting to advance online dispute resolution in India<sup>27</sup>. The meeting was attended by several senior judges, industry leaders, various secretaries, ministries, and legal practitioners from across the country. The purpose of the meeting was to discuss the potential benefits and challenges of implementing ODR in India, as well as to gather insights and suggestions from key stakeholders. This collaborative effort highlights a growing

<sup>27</sup> Ajmer Singh, 'NITI Aayog decides to work with key stakeholders on Online Dispute Resolution framework', The Economic Times (28 June 2020)

recognition of the importance of embracing technology-driven solutions in the field of dispute resolution and signifies a positive step towards increasing acceptance and adoption of ODR in India.<sup>27</sup>

Not only do we need to change the policies and paradigms, but we also need to change our mindsets to advance the ADR solution. We must foster the element that supports the participants in ADR dialogue, empowers them to confront issues, and motivates them to move in a constructive direction if we want to fully embrace and benefit from ODR. To actively support and contribute to the ADR resolution process, we need to raise awareness, provide expert resources to secure ADR platforms and related systems, and change social institutions, government policies, and programs campaigning is required.

