



## ONLINE DISPUTE RESOLUTION (ODR) IN INDIA: TRANSFORMING ARBITRATION THROUGH TECHNOLOGY

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### ABSTRACT

*Online Dispute Resolution, the latest and fascinating innovation in arbitration, is born out of the very rapidly digitising global economy. It integrates technology into conventional methods of dispute resolution, emerging as the most efficient, accessible, and cost-effective dispute resolution mechanism. This is most significant for India, where a huge backlog of cases is crushing the judiciary and delaying justice, as the biggest roadblock to the economic growth of the nation. ODR promises to address this issue, transforming the processes of dispute resolution through its enabling of virtual negotiation, mediation, and arbitration. The paper considers ODR reform possibilities in the context of arbitration in India. It elaborates upon ODR's beginnings globally, the Indian growth, and applications in the e-commerce, banking, and telecommunications sectors. It proceeds to introduce the Acts that were enacted to underscore the ODR foundation in India Arbitration and Conciliation Act of 1996, and the Information Technology Act of 2000. Besides this, it mentions the advantages of ODR-inclusivity for other parties, low costs, low delay, and greater flexibility in procedures. Further criticism includes more serious issues- the digital divide, regulatory divides, hostility to change, and the risks of cybersecurity. This paper looks across the globe at the best international practices from the USA, the UK, and Singapore that recommend strategic reforms to ODR to enhance it in India. Recommendations include enacting comprehensive ODR-specific legislation, investing in secure and scalable technology, capacity building for legal practitioners, and robust campaigns to promote awareness to encourage adoption. Solving these issues will allow ODR to become the foundation of arbitration in India.*

**Keywords:** Arbitration, Digitisation, Mediation, e-commerce disputes, economic growth.

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## INTRODUCTION

Emerging from the interaction of technology and legal systems, Online Dispute Resolution (ODR) is an innovative solution to the dispute resolution needs of these times. ODR essentially refers to the online process or use of digital interfaces to resolve disputes in either negotiation, mediation, or arbitration—a handy and efficient operational alternative to traditional court processes. This context is all the more pertinent to India because its judicial system is bogged down by an immense number of pending cases waiting for timely justice delivery for economic development. Through integration of technology, ODR has big potential in bridging gaps of various aspects in the justice delivery system, which in turn ensures access to resolution and inclusiveness for a wider set of actors. However, the unique socio-economic structure of India offers ODR distinct opportunities and challenges on its path to adoption. In addition to e-commerce, cross-border trade, and digital financial services, ODR is finding a place in the national discourse by providing mechanisms for the speedy and effective resolution of disputes.

ODR, thus, fits the natural scheme of low-cost, flexible, and speedy alternatives to traditional arbitration or litigation. Legislative and judicial developments in India have provided a firm foundation for the incorporation of ODR. The Arbitration and Conciliation Act, 1996 and the Information Technology Act, 2000, provide the needed legal cover for electronic agreements and confer a digital milieu legitimacy. The transition to virtual hearings during the COVID-19 pandemic has also made a case and shown that technology can be used safely in dispute resolution. Initiatives like SAMA and CADRE are merely reflections of the kinds of needs that ODR platforms are solving for businesses and individuals alike.

This paper aims to trace the evolution of ODR in India, analyse its legal and practical ramifications, and gauge its transformative power in modernising arbitration practices. The study has adopted global best practices as the guiding concepts while also identifying the points of challenge, with a view to recommending actionable steps toward a robust ODR ecosystem in India. Ultimately, the idea is that, being integrated into India's arbitration landscape, ODR would become necessary for improving the speed, inclusivity, and technological strength of the country's justice delivery systems.

## DEVELOPMENT OF ODR

**Global Emergence:** ODR has its roots in the field of Alternative Dispute Resolution (ADR), making use of technology to resolve disputes mainly concerning e-commerce and cross-border transactions. Pioneers in ODR systems have been organisations like eBay and PayPal, which have resolved conflicts between buyers and sellers, thereby setting the stage for ODR in other areas.

**ODR in India:** India's sojourn into ODR began with the launch of platforms that offered mediation and arbitration services for consumers in e-commerce, banking, and telecommunications. The pandemic formed a catalyst for ODR since a transition was made to virtual hearings by courts and arbitration tribunals. India-based initiatives such as SAMA and CADRE have, in their way, proved ODR to be workable in the Indian context.

## CONCEPT AND DEVELOPMENT OF ODR

ODR represents any activity whereby technology enables people to resolve conflicts through different kinds of parties. Founded on ADR principles like arbitration, mediation, and negotiation, ODR extends these means online. Where ODR began as minor e-commerce disputes, it has ballooned into full-blown ranges of consumer cases, family-related problems, and even employment, among others and international disputes.

The concept of ODR started gaining popularity in the late 1990s when concepts like eBay and PayPal pioneered its application for resolving transactional disputes. Over time, the technology term consisting of video conferencing, secured document sharing, and artificial intelligence is becoming more comprehensive and effective regarding ODR.

## LEGAL STRUCTURE IN INDIA ON ODR

**The Arbitration and Conciliation Act, 1996:**<sup>1</sup> The Arbitration and Conciliation Act of 1996 forms the backbone of arbitration law in India. Thus, the domestic and international arbitration frameworks in India rest upon its very foundation. The amendments of 2015 and 2021 have invigorated the processions even for speedier procedures, together with an unmistakable endorsement for the adoption of technology for ODR.

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<sup>1</sup> Dhingra, A., 2020. Arbitration and Conciliation Act, 1996-An Overview. Available at SSRN 3582896.

**Information Technology Act, 2000:**<sup>2</sup> The IT Act, 2000, could be regarded as a facilitator of ODR in that it gives electronic records and digital signatures a statutory standing. In accordance with the provisions of this Act, electronic documents which can be executed would create agreements that can be enforced, something that an ODR platform would inherently demand.

Section 65B of the Act, which deals with the admissibility of electronic evidence, further provides impetus to the automation of technologies in their application, even to arbitration.

**Judicial Precedents:** The Indian courts have faced the challenge of recognising e-wills and video conferencing increasingly. Some of the notable recent cases:

**Shakti Bhog Food Industries Ltd v Central Bank of India:**<sup>3</sup> This is one of the cases that supported the admission of electronic evidence under the IT Act.

**Trimex International FZE Limited v Vedanta Aluminium Limited:**<sup>4</sup> The Supreme Court admitted that contracts made by electronic means are enforceable. This opened one more precedent about ODR agreements.

**Government Initiatives:** The Indian government has been actively promoting digital transformation through initiatives such as Digital India and the e-Courts project. These programs aim to modernise the judiciary and improve access to justice, creating new opportunities for integrating ODR systems into mainstream dispute resolution.

**Institutional Rules:** Indian arbitration institutions-including the recently established Mumbai Centre for International Arbitration (MCIA) and the older institution, the Delhi International Arbitration Centre (DIAC), all have provisions included in their rule for virtual hearings. These tend to be techno-friendly, meaning they are easier to adopt.

## ADVANTAGES OF ODR

Different from other forms of dispute resolution, this provides certain advantages, particularly given the context of India:

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<sup>2</sup> Gandhi, S.K., 2006. E-commerce and information technology Act, 2000.

<sup>3</sup> Landmark Judgements on Consumer Law and Practice 2008-2020.

<sup>4</sup> Srinivasan, B., 2011. Formation of Contract Through Emails in India: A Case Comment on Trimex v. Vedanta. Vedanta (March 15, 2011). Corporate Professionals Today, March.

**Affordability:** ODR does away with the extra expenses normally created by the need for physical infrastructure for hearings and travel, further curtailing costs for both the parties and arbitral institutions.

**Accessibility:** With the increasing penetration of the internet in India, ODR provides an opportunity for even remote individuals to access dispute resolution systems.

**Time Efficiency:** ODR reduces time to settle cases through minimised procedural delays and allows for asynchronous communication.

**Flexibility:** ODR platforms provide procedural flexibility that allows the parties to tailor the procedure to their preferences while maintaining close compliance with legal norms.

**Confidentiality and Security:** With the aid of advanced encryption and secure communication channels, sensitive information remains protected.

## **OBSTACLES FOR ODR IN INDIA**

ODR itself poses several challenges in India, regardless of its potential.

**Digital Divide:** Limited access to technology and the internet in rural and economically challenged areas hampers the inclusivity of ODR.

**Awareness and Trust:** A larger number of stakeholders, such as litigants, lawyers, and judges, have never heard of, or do not trust and have scepticism about, how effective ODR might be.

**Legal and Regulatory Voids:** With existing laws, there is still a lack of a solid, demonstrative regulatory regime for ODR in India.

**Infrastructure and Training:** Adequate technological infrastructure and training for stakeholders' capacity are required for ODR to take effect.

**Cultural Resistance:** Culturally poor responses/internalised disinclination to adapt adopt ODR are due to tendencies and practices stated herein.

## **THE OFF-SITE DISPUTE RESOLUTION (ODR) INITIATIVES**

A few of these initiatives have entreated ODR in India with their experiment and the standard for others to follow:

**SAMA:** It is one of the earliest ODR platforms,<sup>5</sup> providing technological support for mediation and arbitration. It has collaborated with numerous government bodies and private organisations to settle a significant number of disputes.

**Presolv360:** A sector-specific ODR provider for commercial dispute resolution,<sup>6</sup> using AI intelligently for effective resolution.

**Centre for Online Resolution of Disputes (CORD):** CORD is a project launched by the National Law University, Delhi, with a focus on research and implementation of applicable ODR frameworks in India.

**E-Lok Adalat:**<sup>7</sup> Centrally sponsored initiatives like e-Lok Adalat showcase how technology can be effectively used in mass-scale dispute resolution across jurisdictions, as conducted by state legal services authorities.

## INTERNATIONAL BEST PRACTICES IN ODR

ODR in India can learn significant lessons from a variety of international experiences, which can empower its ODR ecosystem:

**Technical Notes on ODR:** This is about guidance on procedural standards, transparency, and confidentiality.

**Mediation Convention in Singapore:** This is about an international framework for enforcing mediated settlement agreements that would enhance the credibility of ODR as a whole.

**European Union Online Dispute Resolution Platform:** This is about the use of a consumer dispute platform as a model under which centralised platforms effectively settle disputes.

**Experience in the United States:** Modria has shown how scalable and effective ODR can be even at volume in the resolution of disputes.

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<sup>5</sup> Bohra, H. and Jain, P., 2021. The Relevancy of ODR: Future of New Consumer Disputes Redressal Method. *Jus Corpus LJ*, 2, p.713.

<sup>6</sup> Yadav, P., 2023. Harnessing Technology for Dispute Resolution: A Critical Assessment of India's ODR Policy 2021. Available at SSRN 4452414.

<sup>7</sup> Srivastav, S., 2021. Role of E-Lok Adalats in Providing Legal Aid and Speedy Justice at Litigant's Door Step during Pandemic. *Indian JL & Legal Rsch.*, 2, p.1.

## SOLUTIONS TO ENHANCE ODR IN INDIA

These obstacles must be addressed for ODR to achieve its maximal potential, and adopting a multi-faceted approach for this will benefit the sector.

**Policy and Regulation:** Develop comprehensive legislation outlining the enabling legal framework for ODR, addressing in detail its procedural and substantive issues.

**Capacity Building:** Provide training for lawyers, arbitrators, and mediators on ODR platforms and processes.

**Public Awareness Campaigns:** Promote ODR by conducting campaigns around ODR's benefits and success stories.

**Infrastructure Development:** Invest in technological infrastructure, high-speed internet, and secure platforms to help eliminate the digital divide.

**Integration Services with Judicial Processes:** Work with the courts to enable the integration of ODR with existing workflows to lighten the court backlog.

**Customisation for Local Needs:** Develop multilingual platforms and customise processes to adjust to cultural and regional diversity.

## FUTURE OF ODR IN INDIA

The way ODR will move and shape in the future in India is very encouraging, as in the current fast-changing environment, technology, legislation, and increasing audience awareness support each other. The confident rise of the digital era with its ongoing tradition may therefore provide much hotter ground for ODR to thrive. And the expected evolution is:

**Government Initiative and Policy Support:** A statement on the Indian government's ongoing premium being placed and various commendations accorded on e-governance and digital infrastructure provides an umbrella under which ODR is conceived. Adaptation of policies to enhance internet connectivity, particularly in rural areas of India, will widen access to platforms that provide ODR.

**Judicial Collaboration:** A fusion of the traditional system with the digital system could prove fruitful as courts are increasingly recognising the utility of technology. This could work quite

seriously on the list of case management, hearing scheduling, and presentation of pieces of evidence that had led to judicial backlogs.

**The Private Players and Startups:** Private ODR platforms have a prominent role to play in innovation. They can explore the unique capabilities of artificial intelligence, machine learning, and blockchain technology, thereby allowing them to provide user-friendly, efficient, and secure solutions suitable for India's varied population.

**Cross-Border Disputes:** With India's strengthening global stature in trade and investments, ODR can become a great tool for the resolution of cross-border disputes. Having devised domestic practice to meet international stipulations like the Singapore Convention-facilitating Indian desirability as an arbitration centre.

**Customisation for Regional and Cultural Needs:** Because of the linguistic and cultural diversity of India, local languages and processes should be catered to by means of the required providing these services in a set of multilingual interfaces and culturally sensitive dispute resolution modes will be very important.

**Adopt More Influence Over E-commerce and Real Estate:** It will require ODR to attain the level of dominance in resolution. A wider application in labour and employment disputes, family law, and small commercial conflicts will ensure even higher reach.

## CONCLUSION

Online Dispute Resolution (ODR) is indeed a paradigm shift in resolving disputes. Marrying technology with tenets of justice, ODR shall create a system whose parameters have to be rational, open, and fair. In the Indian context of an overloaded judiciary and significant backlogs causing delays across the board, ODR presents a pragmatic case for making justice accessible to all while streamlining systemic inefficiencies.

How far ODR gains global acceptance in India would depend on how well all stakeholders-government, judiciary, private sector, and civil society-realize their interdependence and collaborate. Legitimate protocols passed into law will require sufficient legal coverage, enabling a supportive technological environment to gain traction. Its credibility and acceptance would further gain support from a judicial stamp in the integration of ODR into traditional workflows.



India's digital transformation via ideas like Life Is Not A Race-taking stock for ODR to grow technically, all the foundation is in place. Only a digital divide could still challenge it. More overwhelming than rapid improvements of Internet fellowship-connectivity with more internet-first destiny being given to cities, especially villages and infrastructure-less infrastructural service areas on people are bound to stay further from the authority to capture the development in ODR. Subsequent to technological training for law practitioners on mediation and arbitration, it must create time pooling on technical conduct on dispute resolution in building both capacity and expertise.