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# **THE USE OF ADR IN RESOLVING DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS**

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## **ABSTRACT: -**

The rise of social media and online platforms has led to an increase in the number of conflicts that require resolution. As these digital spaces expand, the demand for effective conflict resolution mechanisms has grown correspondingly. Alternative Dispute Resolution (ADR) has emerged as a valuable approach for addressing disputes in this context, offering advantages such as reduced costs and greater flexibility compared to traditional litigation. ADR encompasses various methods, including mediation, arbitration, and negotiation, which are particularly well-suited for resolving issues related to social media and online platforms.

However, despite the potential benefits, there are still significant challenges to be addressed. The legal framework surrounding ADR in the context of online platforms remains unclear, and identifying and engaging the relevant parties in disputes can be difficult. These issues can complicate the resolution process.

Nevertheless, ADR remains a promising and effective alternative to traditional litigation. It offers a more collaborative approach, allowing parties to work together towards a resolution, often resulting in a more cost-effective and adaptable process. Moreover, ADR tends to have a higher success rate, with a greater likelihood of achieving outcomes that are mutually satisfactory to all parties involved. As such, ADR represents a valuable tool for resolving conflicts arising from social media and online platform use.

**Keywords:** - Alternate Dispute Resolution (ADR), social media, Online platform disputes, Jurisdiction, Individuals and Business

## INTRODUCTION: -

The growing use of social media and online platforms has led to a surge in conflicts such as online defamation, cyberbullying, and other digital disputes. These issues are often complex and challenging to resolve through traditional litigation, particularly due to difficulties in identifying the responsible parties. Alternative Dispute Resolution (ADR) methods have emerged as effective alternatives to conventional litigation for resolving these types of disputes. Approaches like negotiation, mediation, arbitration, and Online Dispute Resolution (ODR) are particularly suited for handling conflicts related to online defamation, cyberbullying, and other digital issues.

ADR offers several advantages, including cost-effectiveness, privacy, confidentiality, time-efficiency, and flexibility. However, certain challenges persist in using ADR for these cases, such as a lack of awareness about ADR methods, difficulties in identifying the responsible parties, and challenges in enforcing ADR decision.

The legal landscape concerning ADR in online disputes is still evolving, and this blog will explore relevant case laws and legal provisions in this area.

The significance of ADR in resolving disputes related to social media and online platforms cannot be overstated. These conflicts can have a profound impact on individuals and businesses, affecting their reputations, livelihoods, and mental well-being. ADR provides an effective and efficient alternative to traditional litigation, which can be time-consuming, costly, and highly public. Methods like negotiation, mediation, arbitration, and ODR offer quicker, more cost-effective solutions for resolving these disputes. Additionally, ADR ensures a higher degree of privacy and confidentiality, allowing parties to settle conflicts discreetly. ADR methods can also be customized to meet the specific needs of the parties involved, offering a flexible and tailored approach to conflict resolution.

In conclusion, ADR is a valuable tool for resolving disputes related to social media and online platforms. It promotes amicable resolutions and helps alleviate the burden on the court system.

## UNDERSTANDING ADR: -

Alternative Dispute Resolution (ADR) encompasses a variety of methods and techniques that parties can utilize to resolve conflicts without resorting to traditional courtroom litigation.<sup>1</sup> The Arbitration and Conciliation Act, enacted in India in 1996, provides a legal framework for the arbitration and conciliation of both domestic and international disputes. According to this Act, ADR is defined as "any method of resolving disputes other than by adjudication of a court," and it includes arbitration, conciliation, and mediation.<sup>2</sup>

The primary objective of ADR is to offer a quicker, more cost-effective, and flexible approach to resolving disputes while fostering amicable and mutually satisfactory outcomes.<sup>3</sup>

There are several types of ADR methods available for parties to resolve disputes outside of traditional litigation. The most commonly used ADR methods include negotiation, arbitration, mediation, and online dispute resolution (ODR). Additionally, there are less common ADR methods such as conciliation, mini-trials, summary jury trials, and hybrid methods that combine various ADR techniques.<sup>4</sup>

The selection of an appropriate ADR method depends on the nature of the dispute, the parties involved, and the desired outcome.<sup>5</sup>

## NEGOTIATION: -

Negotiation is an ADR method that involves direct communication between the parties involved in a dispute. In this process, the parties engage in discussions and compromise to find a mutually acceptable solution. Through a give-and-take approach, they work together to resolve the conflict.<sup>6</sup>

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1 Scott H. Blackman & Rebecca M. McNeill, *Alternative Dispute Resolution in Commercial Intellectual Property Disputes*, 47 AM. UNIV. LAW REV. 1709 (1998).

2 Frank E. A. Sander, *Alternative Methods of Dispute Resolution: An Overview*, 37 UNIV. FLA. LAW REV. (1985)

3 Jethro K. Lieberman & James F. Henry, *Lessons from the Alternative Dispute Resolution Movement*, 53 UNIV. CHICAGO LAW REV. 439 (1986).

4 Deborah R. Hensler, *Our Courts, Ourselves: How the Alternative Dispute Resolution Movement Is Re-Shaping Our Legal System*, 108 PENN STATE LAW REV. (2003)

5 Sai-On Cheung, Henry C. H. Suen & Tsun-Ip Lam, *Fundamentals of Alternative Dispute Resolution Processes in Construction*, 128 J. CONSTR. ENG. MANAG. 409 (2002).

<sup>6</sup> Ellen E. Deason, *Procedural Rules for Complementary Systems of Litigation and Mediation - Worldwide*, 80 NOTRE DAME LAW REV. (2004).

During negotiation, each party presents their perspective on the dispute and outlines their desired outcome. The parties then collaborate to identify common ground and reach a resolution that satisfies both sides. The negotiation process may involve multiple rounds of discussion and can be facilitated by a neutral third-party mediator.

One of the key advantages of negotiation is that it allows the parties to maintain control over the outcome of the dispute. By engaging directly and reaching a mutually agreeable resolution, they can avoid the costs and uncertainties associated with litigation or arbitration.

Negotiation is often a faster and more efficient method of resolving disputes compared to litigation or arbitration. Since the parties are directly involved in the process, they can work together to develop a solution that aligns with their needs and interests.

However, negotiation may not be suitable for all types of disputes. In situations where the parties are unwilling to compromise or where there is a significant power imbalance, negotiation may not be effective. Additionally, it may not be the best approach for disputes involving complex legal or factual issues.

Overall, negotiation is a highly effective ADR method for resolving a wide range of disputes, including those related to social media and online platforms. By engaging in direct communication and collaborating to find a mutually acceptable solution, parties can avoid the negative consequences of prolonged disputes and retain control over the resolution.

### **MEDIATION: -**

Mediation is an ADR method in which a neutral third-party mediator assists the parties in reaching a mutually acceptable resolution to their dispute. The mediator facilitates communication between the parties and helps them identify and address the underlying issues that have led to the conflict.<sup>7</sup>

During the mediation process, the mediator meets with the parties both separately and together to discuss the dispute and explore potential solutions. Unlike a judge or arbitrator, the mediator

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<sup>7</sup> Silpi Jain, Aryan Mohindroo & Harshil Manchanda, Mediating the Irish Way: Taking an Alternative Approach to Alternative Dispute Resolution in India, 87 ARBITR. INT. J. ARBITR. MEDIAT. DISPUT. MANAG. 67 (2021).

does not have the authority to impose a decision; instead, they guide the parties toward finding a mutually agreeable resolution.

One of the main advantages of mediation is its confidential and informal nature. The parties can speak openly about the dispute and explore possible solutions without concern that their statements will be used against them in future legal proceedings. Additionally, mediation is often less expensive and time-consuming than litigation or arbitration.

Mediation is particularly effective for resolving disputes related to social media and online platforms, as it allows the parties to consider creative solutions that may not be available through traditional legal channels. The mediator can help the parties uncover underlying issues, such as communication breakdowns or misunderstandings, and work with them to develop strategies for improving communication and preventing future conflicts.

However, mediation may not be suitable for all disputes. In cases where there is a significant power imbalance between the parties, or where one party is unwilling to negotiate in good faith, mediation may not be effective.<sup>8</sup> Additionally, mediation may not be the best approach for disputes involving complex legal or factual issues.

Overall, mediation is an effective ADR method for resolving a wide range of disputes, including those related to social media and online platforms. By participating in a confidential and informal process with the assistance of a neutral mediator, parties can often reach a mutually acceptable resolution, avoiding the negative consequences of prolonged disputes

### **ARBITRATION: -**

Arbitration is an ADR method in which a neutral third-party arbitrator hears evidence and makes a binding decision on the dispute.<sup>9</sup> The arbitrator is typically selected by the parties and is often an expert in the subject matter of the dispute.

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<sup>8</sup> John Forester, Planning In the Face of Conflict: Negotiation and Mediation Strategies in local Land Use Regulation, 53 J. AM. PLAN. ASSOC. 303 (1987).

<sup>9</sup> Donna Shestowsky, Procedural Preferences in Alternative Dispute Resolution: A Closer, Modern Look at an Old Idea., 10 PSYCHOL. PUBLIC POLICY, LAW 211 (2004).

During the arbitration process, both parties present evidence and make arguments to the arbitrator, who then renders a decision based on the information provided. The decision is usually binding, meaning that the parties are required to accept and comply with the arbitrator's ruling.

One of the key advantages of arbitration is that it is generally faster and less expensive than traditional litigation. Additionally, because the parties can choose an arbitrator with expertise in the relevant subject matter, the decision is likely to be more informed and well-reasoned.<sup>10</sup>

Arbitration is also effective for resolving disputes related to social media and online platforms, as it helps the parties avoid the negative consequences of prolonged disputes while maintaining control over the resolution process.

However, arbitration has some drawbacks. Since the arbitrator's decision is typically binding, there is little opportunity for the parties to appeal. Additionally, the arbitration process may offer limited discovery and evidentiary rights, which can restrict the parties' ability to present their case fully.<sup>11</sup>

Overall, arbitration is a valuable ADR method for resolving a wide range of disputes, including those related to social media and online platforms. By participating in a process that is often quicker and more cost-effective than traditional litigation and working with a neutral third-party arbitrator, parties can often reach a resolution that avoids the negative consequences of extended disputes.

### **ONLINE DISPUTE RESOLUTION (ODR):-**

Online Dispute Resolution (ODR) is an ADR method that leverages technology to resolve disputes that arise in an online environment. ODR utilizes various tools and techniques, such as video conferencing, email, and online negotiation platforms, to facilitate the resolution process.<sup>12</sup>

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<sup>10</sup>Felix I. Lessambo, Alternative Dispute Resolution, in INTERNATIONAL PROJECT FINANCE 99 (2022).

<sup>11</sup> David L Erickson & Peter Geoffrey Bowen, Two Alternatives to Litigation: An Introduction to Arbitration and Mediation, 60 DISPUT. RESOLUT. J. 42 (2006)

<sup>12</sup> Eugene Clark, George Cho & Arthur Hoyle, Online Dispute Resolution: Present Realities, Pressing Problems and Future Prospects, 17 INT. REV. LAW, COMPUT. TECHNOL. 7 (2003), <https://www.tandfonline.com/doi/full/10.1080/1360086032000063084>.

One of the main advantages of ODR is its convenience and accessibility. Since the process can be conducted entirely online, parties from around the world can participate without incurring costly travel expenses or needing to take extended time off work.<sup>13</sup>

ODR is particularly effective for resolving disputes related to social media and online platforms, such as online defamation, cyberbullying, and other digital conflicts. ODR platforms provide a safe and neutral space for parties to communicate and resolve their disputes without requiring direct contact or exposure.

However, there are some drawbacks to ODR. One potential disadvantage is that the lack of face-to-face interaction may make it difficult for some parties to effectively communicate and advocate for their position.<sup>14</sup> Additionally, as ODR is a relatively new field, there may be concerns about the security and confidentiality of the process.

Overall, ODR is an effective ADR method for resolving a wide range of disputes related to social media and online platforms. By utilizing technology to facilitate the process, parties can often reach a mutually acceptable resolution, avoiding the negative consequences of prolonged disputes.

### **AMBIT OF SOCIAL MEDIA AND ONLINE PLATFORMS: -**

Online platforms<sup>15</sup> encompass a broad range of websites, services, and digital tools that allow users to interact with one another, share content, and access various services over the internet. These platforms include social media sites like Facebook, Twitter, Instagram, LinkedIn, and TikTok; e-commerce platforms such as Amazon, eBay, and Alibaba; online marketplaces like Etsy and Airbnb; communication platforms such as Skype, Zoom, and Slack; online gaming platforms; video-sharing platforms like YouTube; and various other types of online communities and forums.

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<sup>13</sup>Joseph W. Goodman, The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites, 2 DUKE LAW TECHNOL. REV. 1 (2003).

<sup>14</sup> Id.

<sup>15</sup> Definition of online platform | PCMag, <https://www.pcmag.com/encyclopedia/term/online-platform> (last visited Sept 1, 2024).

Social media platforms<sup>16</sup> are a subset of online platforms, specifically designed to enable users to create, share, and interact with content and each other in a social context. These platforms typically offer features such as user profiles, the ability to follow or connect with others, and tools for sharing text, images, videos, and other content. They also include various forms of engagement, such as comments, likes, and shares.

The scope of social media<sup>17</sup> is constantly evolving as new platforms emerge and existing ones expand their features and capabilities. Despite this ongoing evolution, social media platforms generally cover a wide range of online communities and communication tools that allow users to connect, share information, and engage in various forms of social interaction.

### **UNDERSTANDING THE ONLINE PLATFORM DISPUTES: -**

The increase in online platform disputes can be linked to the growing use of the internet and social media platforms for communication, commerce, and entertainment. As these platforms become more integral to daily life, there has been a corresponding rise in online transactions and interactions,<sup>18</sup> leading to more disputes related to these activities. These disputes may occur between individuals, businesses, or between individuals and businesses, and often involve issues such as fraud, misrepresentation, breach of contract, intellectual property infringement, and defamation. The speed and anonymity of online communications can intensify these disputes, making it challenging for parties to resolve them amicably.<sup>19</sup> Consequently, the use of alternative dispute resolution methods, such as mediation and arbitration, has become increasingly important for resolving online platform disputes efficiently and cost-effectively.

### **ADVANTAGES OF ADR IN RESOLVING ONLINE PLATFORM DISPUTES: -**

- **Time Efficiency:** ADR methods such as mediation and arbitration are quicker than traditional court proceedings, thus saving time for both parties involved.

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16 What Is Social Media? <https://www.fannit.com/blog/what-is-social-media/> (last visited Sept 2, 2024)

17 Scope & Benefits of Social Media in Digital marketing - Talentedge, <https://talentedge.com/articles/scope-benefits-socialmedia-digital-marketing/> (last visited Sept 2, 2024)

18 Peter Ladis & Gaurav Kumar, Cyberspace and its Governance (2020).

19 Suzanne Van Arsdale, User Protection in Online Dispute Resolution, 21 HARVARD NEGOT. LAW REV. 107 (2015).

- **Cost Efficiency:** ADR methods are generally more affordable than litigation, as they involve fewer legal fees and avoid the extended duration of court processes.
- **Confidentiality:** ADR processes are private, allowing parties to resolve disputes without publicly disclosing sensitive information.
- **Flexibility:** ADR offers flexibility and can be customized to meet the specific needs of the parties. Participants can select the mediator or arbitrator, determine the location and timing of the proceedings, and set the rules for the process.
- **Expertise:** ADR allows parties to choose a neutral third party with relevant expertise in the dispute's subject matter, leading to a more informed and effective resolution.
- **Relationship Preservation:** ADR methods are typically less adversarial than litigation, helping to maintain relationships and facilitating future collaboration.
- **Finality:** ADR provides closure to the dispute, as decisions made through mediation or arbitration are binding and enforceable.
- **High Success Rate:** ADR methods often achieve a high success rate because parties are usually more inclined to adhere to outcomes they have had a role in shaping.

## CHALLENGES IN RESOLVING ONLINE PLATFORM DISPUTES THROUGH ADR: -

While Alternative Dispute Resolution (ADR) offers numerous advantages for resolving disputes related to social media and online platforms, it also faces several challenges in this context:

1. **Lack of Legal Framework:** A significant challenge is the absence of a clear legal framework for online disputes. This lack of clarity can lead to confusion about jurisdiction, the applicability of laws, and the enforceability of ADR decisions.
2. **Identification of Parties:** Online disputes often involve parties from various jurisdictions, making it difficult to identify and locate them. The use of fake identities or anonymous accounts can further complicate the process of resolving the dispute.
3. **Confidentiality:** Maintaining confidentiality can be challenging in online disputes, especially in cases of cyberbullying or harassment where the victim may wish to keep their identity private. Additionally, privacy policies of social media and online platforms may conflict with ADR principles, complicating efforts to protect confidentiality.

4. **Technical Issues:** Technical problems such as system errors, data loss, or hacking can impact online dispute resolution. These issues may affect the reliability of evidence and lead to questions about the integrity of the process.
5. **Power Imbalances:** Disparities in power between parties can be pronounced in online disputes, particularly in cases of cyberbullying or harassment where one party may have a more substantial online presence or influence. Such imbalances can hinder the achievement of a fair and equitable resolution.
6. **Lack of Participation:** Some parties may be reluctant to engage in ADR due to a lack of trust in the process or a preference for litigation. This reluctance can obstruct the resolution process and prolong the dispute.
7. **Cultural Differences:** Online disputes may involve parties from diverse cultural backgrounds, leading to potential misunderstandings or miscommunications. These differences can complicate the negotiation process and exacerbate conflicts.
8. **Limited Availability of ADR Mechanisms:** A challenge in resolving online platform disputes through ADR is the limited availability of established ADR mechanisms. While some online platforms have dedicated dispute resolution centers or ombudspersons, not all platforms offer such resources, making it difficult for parties on these platforms to access ADR.
9. **Preference for Litigation:** Despite the availability of ADR mechanisms, some parties may opt for litigation over ADR. Factors such as a lack of confidence in ADR procedures or the belief that litigation will yield a better outcome can drive this preference. This choice can lead to delays and higher costs associated with traditional court proceedings.
10. **Appreciation of Evidence:** Evaluating evidence in online platform disputes poses a key challenge for ADR. Much of the evidence in these cases is digital—such as chat logs or screenshots—which can be manipulated or deleted. This makes it difficult to establish the true facts of the case. Additionally, the complexity of digital evidence can be challenging for ADR mechanisms lacking technical expertise, potentially leading to uncertainty or incorrect decisions.

To address these challenges, it is crucial to develop an effective ADR framework specifically designed for online disputes. This framework should address jurisdictional issues, ensure privacy and confidentiality, and manage technical concerns while maintaining a fair and equitable process. Educating the public about the benefits of ADR and promoting its use can

also help build trust in the process, encouraging greater participation and leading to more efficient dispute resolution.

## **DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS: -**

Social media and online platforms have transformed communication and interaction, but their extensive use has led to various disputes. These disputes often involve multiple parties, cross-border issues, and diverse legal and regulatory frameworks.<sup>20</sup>

A prevalent issue is online defamation, where false statements are made about someone or an entity online, damaging their reputation. Such defamation can lead to significant personal or professional harm, resulting in lost opportunities or income.

Cyberbullying is another common problem, involving the use of the internet or social media to harass or bully individuals. This can manifest as threatening messages, offensive comments, or false rumors, and can have severe effects on a person's mental health, including anxiety and depression.

Intellectual property infringement frequently occurs on social media and online platforms, where copyrighted material such as images or videos is used without permission or proper attribution. The ease of sharing content online complicates the tracking of ownership, leading to disputes over intellectual property rights.

Privacy violations also pose a major issue, occurring when personal information is shared or used without consent. Given the vast amount of personal data online, privacy breaches are a growing concern for both individuals and businesses.

Contract disputes related to social media and online platforms<sup>21</sup> can arise over terms and conditions associated with their use. These disputes may involve complex issues such as intellectual property rights, liability, and indemnification.

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<sup>20</sup> Orna Rabinovich-Einy & Ethan Katsh, Blockchain and the Inevitability of Disputes: The Role for Online Dispute Resolution, 2019 J. DISPUT. RESOLUT. 47 (2019).

<sup>21</sup> Julien Chaisse & Jamieson Kirkwood, Smart Courts, Smart Contracts, and the Future of Online Dispute Resolution, 5 STANFORD J. BLOCKCHAIN LAW POLICY 62 (2022).

Consumer complaints about products or services bought through social media or online platforms<sup>22</sup> are increasingly common. Issues may include misrepresentation, non-delivery, or defective products.

Alternative Dispute Resolution (ADR) methods, including mediation, arbitration, and Online Dispute Resolution (ODR), offer efficient and cost-effective ways to resolve these disputes. ADR provides a platform for parties to negotiate and find mutually acceptable solutions, helping to address the risks associated with social media and online platforms and allowing for prompt and effective resolution of conflicts.

### **IMPACT OF THESE DISPUTES ON INDIVIDUALS AND BUSINESS: -**

Disputes arising from social media and online platforms can have a profound impact on both individuals and businesses, encompassing issues such as online defamation, cyberbullying, intellectual property infringement, privacy violations, contract disputes, and consumer complaints. These disputes can lead to severe consequences, including financial losses, reputational damage, and emotional distress.

For individuals, online defamation and cyberbullying can cause significant emotional turmoil, affecting personal and professional relationships. Reputational harm from such disputes can result in lost opportunities and damage to one's personal brand. Intellectual property infringement can be particularly damaging for content creators and artists, who depend on their intellectual property for income and recognition.

Businesses face even more significant repercussions. Negative feedback or reviews on social media can tarnish a company's reputation, leading to decreased revenue and loss of customers. Intellectual property disputes can result in financial losses, brand damage, and expensive legal battles. Privacy violations can incur regulatory fines, legal costs, and a loss of customer trust. Contract disputes can cause revenue loss, strain relationships with vendors or partners, and result in costly litigation.

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<sup>22</sup>T S Korobeynikov, Consumer Online Dispute Resolution, in PROCEEDINGS OF THE INTERNATIONAL SCIENTIFIC CONFERENCE "FAR EAST CON" (ISCFEC 2020) 3323 (2020).

Beyond financial impacts, these disputes can also affect the emotional well-being of business owners and employees. The stress associated with managing such disputes can lead to burnout and decreased productivity, which can, in turn, exacerbate financial losses and reputational harm.

To mitigate these risks, it is crucial for individuals and businesses to proactively manage the potential issues associated with social media and online platforms. This includes establishing clear policies and procedures for acceptable behavior and content. Businesses should also have strategies in place for handling disputes, including the use of Alternative Dispute Resolution (ADR) methods to resolve conflicts swiftly and efficiently before they escalate.

Overall, the impact of social media and online platform disputes can be substantial, both financially and emotionally. Taking proactive measures to manage these risks and employing ADR methods can help achieve effective resolutions and avoid the negative effects of prolonged disputes.

### **BENEFITS OF ADR IN RESOLVING DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS: -**

1. **Confidentiality:** ADR methods provide a private setting for resolving disputes related to social media and online platforms, ensuring greater privacy and security compared to traditional court proceedings. This is particularly valuable in cases involving sensitive personal or business information.
2. **Flexibility:** ADR methods offer greater flexibility than traditional litigation, allowing parties to tailor the process to their specific needs and goals. They can decide on the location, timing, and scope of the ADR process, which facilitates reaching a mutually agreeable resolution
3. **Cost-effectiveness:** ADR methods are generally more cost-effective than traditional litigation. They are typically less expensive and can be resolved more quickly, reducing the financial strain on the parties involved.
4. **Relationship Preservation:** ADR focuses on collaboration and problem-solving, which can help maintain relationships between parties. This is especially important in disputes related to social media and online platforms, where ongoing relationships, such as business partnerships or co-parenting arrangements, may exist.

5. **Creative Solutions:** ADR encourages parties to explore innovative solutions to their disputes, leading to more creative and mutually beneficial outcomes. This is particularly relevant in cases involving social media and online platforms with multiple stakeholders and interests.
6. **Compliance:** ADR relies on voluntary participation and mutual agreement, which often results in higher compliance with the outcome. This reduces the likelihood of prolonged disputes and additional litigation, which can be both costly and time-consuming.
7. **Accessibility:** ADR methods, especially online dispute resolution (ODR), are highly accessible, enabling global participation without the need for travel or extended absences from work. This convenience makes ADR processes more efficient and user-friendly.
8. **Expertise:** ADR methods are effective in resolving disputes involving complex technological and legal issues, such as those related to social media and online platforms. ADR practitioners often possess specialized knowledge, providing valuable guidance and insight during the resolution process.
9. **Speed:** ADR methods typically offer quicker resolutions than traditional litigation, which can be protracted and lengthy. This is crucial in disputes related to social media and online platforms, where issues can escalate rapidly and have significant consequences.
10. **Control:** ADR allows parties to maintain greater control over the resolution of their disputes, unlike traditional litigation where a judge or jury makes the final decision. This control is important for parties who wish to influence the outcome directly.

In summary, ADR methods offer numerous advantages for resolving disputes related to social media and online platforms, including confidentiality, flexibility, cost-effectiveness, relationship preservation, creative solutions, compliance, accessibility, expertise, speed, and control. Opting for ADR over traditional litigation can lead to more efficient, effective, and amicable dispute resolution, while also reducing costs and preserving relationships.

### **LEGAL FRAMEWORK: -**

India's legal framework supports the use of alternative dispute resolution (ADR) methods, such as arbitration, conciliation, and mediation, to address online disputes and those related to social media. Relevant legislation includes:

**The Information Technology Act, 2000:**<sup>23</sup> This Act addresses electronic contracts, digital signatures, and other electronic records, which can be used as evidence in ADR proceedings. It also established the Cyber Appellate Tribunal to hear appeals against orders made by the Adjudicating Officer under the Act.

**The Indian Contract Act, 1872:**<sup>24</sup> This Act outlines contract enforcement and remedies for breaches. It also provides for the Consumer Disputes Redressal Commission, which handles complaints regarding goods and services purchased online.

**The Consumer Protection Act, 2019:**<sup>25</sup> This Act includes provisions for ADR methods such as mediation and conciliation to resolve consumer disputes.

**The Indian Penal Code, 1860:**<sup>26</sup> This Code addresses cybercrimes including online defamation and cyberbullying. ADR methods like mediation and negotiation can be applied to these offenses as well.

**The Code of Civil Procedure, 1908:**<sup>27</sup> Section 89 of this Code allows courts to refer disputes to arbitration, mediation, or other ADR mechanisms, facilitating resolution outside of court. This provision is applicable to disputes involving defamation, cyberbullying, copyright infringement, and other online issues

**The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:** These rules set out a framework for handling disputes related to social media and online platforms<sup>28</sup>. They require intermediaries to appoint grievance officers to manage complaints and establish an independent body to oversee dispute resolution. The rules emphasize the use of ADR methods like mediation and conciliation for resolving online content disputes and provide for a self-regulatory mechanism for online news publishers and OTT platforms.

Parties involved in online and social media disputes can leverage ADR mechanisms for efficient and cost-effective resolution, avoiding prolonged court proceedings. It is essential for parties to understand the relevant legal provisions and seek legal advice before initiating ADR processes.

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<sup>23</sup> The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

<sup>24</sup> The Indian Contract Act, 1872, No. 09, Acts of Parliament, 1872 (India).

<sup>25</sup> The Consumer Protection Act, 2019, No. 35, Acts of Parliament, 2019 (India).

<sup>26</sup> The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India)

<sup>27</sup> The Code of Civil Procedure, 1908, No. 05, Acts of Parliament, 1908 (India).

<sup>28</sup> Law enforcement agencies investigating case of alleged killing due to PUBG influence: Mos IT, BUSINESS TODAY (2022), <https://www.businesstoday.in/latest/trends/story/law-enforcement-agencies-investigating-case-of-alleged-killing-due-to-pubg-influence-mos-it-342475-2022-07-2023>(last visited Sept 2, 2024)

### CASE LAWS: -

- **Super Cassettes Industries Ltd. v. Myspace Inc:-**<sup>29</sup> This case involved a dispute between an Indian music company and a U.S.-based social networking site. The Indian company claimed that the site had infringed on its copyrights by allowing users to upload and share its copyrighted content without authorization. According to the user agreement, the case was referred to arbitration under the International Chamber of Commerce (ICC) rules in Singapore. The arbitrator found the social networking site liable for copyright infringement and awarded damages to the Indian company. This case illustrates the effectiveness of ADR in handling cross-border disputes involving online platforms.
- **Shreya Singhal v. Union of India:**<sup>30</sup> This case challenged the constitutionality of Section 66A of the Information Technology Act, 2000, which had been used to arrest individuals for posting allegedly offensive content on social media.
- The Supreme Court of India ruled Section 66A unconstitutional. However, the court emphasized that social media companies must prevent their platforms from being used to spread hate speech or incite violence. The court suggested that ADR methods like mediation and conciliation could be effective for resolving disputes related to online content. This case underscores the need for a balanced approach to online content regulation and the potential role of ADR in addressing these issues.
- **Anvar v. P.K. Basheer:**<sup>31</sup> In this case, the Supreme Court of India ruled that electronic evidence can be used in arbitration proceedings. The dispute concerned defamatory statements published on a website, and the parties chose arbitration for resolution. The arbitration tribunal accepted electronic evidence, including webpages and emails, which one party contested. The Supreme Court upheld the use of electronic evidence in arbitration, setting a precedent for its acceptance in such proceedings.
- **Bhasin v. Hrynew:**<sup>32</sup> The Supreme Court of Canada held that parties to a contract have a duty to act honestly and in good faith, extending to both performance and discretion under the contract. The dispute involved a securities dealer and a broker, where the broker alleged a breach of good faith due to contract termination. The parties agreed to resolve the matter through mediation, which resulted in a settlement. This case

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<sup>29</sup> 2011 (47) PTC 49 Del (DB).

<sup>30</sup> (2015) 5 SCC 1.

<sup>31</sup> AIR 2015 SC 180.

<sup>32</sup> 2014 SCC 71

emphasizes the importance of good faith in contractual relationships and the effectiveness of mediation.

- **Tamiz v. Google:**<sup>33</sup> The High Court of England and Wales ruled that Google was not liable for defamatory statements posted on its blogging platform, Blogger. The claimant argued that Google, as a publisher, should be held responsible, but the court decided that Google was not liable as it did not know of the defamatory content until notified and acted promptly to remove it. The court also noted that Google's terms of service require disputes to be resolved through arbitration, highlighting the role of arbitration clauses in online platforms.
- **Airbnb Ireland UC v. Residential Tenancies Board:**<sup>34</sup> The Supreme Court of Ireland decided that disputes between landlords and tenants using the Airbnb platform could be resolved through arbitration. The Residential Tenancies Board had argued that such disputes fell under its jurisdiction, but the court upheld that the parties had agreed to arbitration by accepting Airbnb's terms of service. This case demonstrates how arbitration agreements in service terms can govern dispute resolution.
- **Hassell v. Bird:**<sup>35</sup> In this case, a law firm sued a former client over a negative review posted on Yelp. The firm obtained a court order requiring Yelp to remove the review, and Yelp challenged this order, claiming it violated its First Amendment rights. The Supreme Court of California ruled that the order did not breach Yelp's First Amendment rights, as it was specifically aimed at addressing the harm caused by the defamatory review. This case highlights the conflict between free speech and the need to protect individuals and businesses from defamatory content on social media, as well as the potential legal challenges surrounding online reviews.

## **FUTURE OF ADR IN DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE DISPUTES**

The future of Alternative Dispute Resolution (ADR) in addressing disputes related to social media and online platforms looks promising. As the use of social media and online platforms continues to grow, so does the likelihood of disputes in these areas. Effective and efficient mechanisms for resolving these disputes are therefore essential. ADR methods, including

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<sup>33</sup> [2013] EWCA Civ 68

<sup>34</sup> [2019] IEHC 512.

<sup>35</sup> 235 Cal.Rptr.3d 56 (Cal. 2018)

mediation, arbitration, and online dispute resolution, have already demonstrated their effectiveness in handling such issues.<sup>36</sup>

A key area for future development in ADR is the creation of specialized ADR providers with expertise in the unique challenges posed by online disputes. This could involve establishing specific rules and guidelines tailored for social media and online platform disputes and offering targeted training for mediators and arbitrators in this field.

Another area of potential growth is the integration of technology to enhance ADR processes. Online dispute resolution platforms are increasingly being used, and this trend is expected to continue. Future advancements in artificial intelligence and machine learning could also play a significant role in managing disputes related to social media and online platforms.<sup>37</sup>

Overall, the outlook for ADR in resolving online and social media disputes is positive. As these digital spaces evolve, the demand for effective and efficient dispute resolution mechanisms will grow. ADR methods are well-suited to tackle the distinct challenges of online disputes, and advancements in specialized providers and technology will further bolster their effectiveness.

### **CONCLUSION: -**

In conclusion, employing Alternative Dispute Resolution (ADR) for resolving disputes related to social media and online platforms offers significant benefits for both individuals and businesses. ADR methods, including negotiation, mediation, arbitration, and online dispute resolution, are effective in addressing issues such as online defamation, cyberbullying, and other digital conflicts. These methods provide advantages like confidentiality, flexibility, and a faster, more cost-effective resolution process.

However, there are challenges in using ADR for online disputes, such as ensuring compliance and the absence of established legal precedents. Despite these hurdles, the benefits of ADR make it a valuable approach for managing disputes in the digital realm.

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<sup>36</sup> Ana Pepeljgoska, Jurisdictional Issues, Conflict of Laws Or Alternative Dispute Resolution of Disputes That Related to the Infringement of the Intellectual Property Right on the Social Media Platforms, 6 IUSTINIANUS PRIMUS LAW REV. 1 (2015).

<sup>37</sup> Karolina Mania, Online dispute resolution: The future of justice, 1 INT. COMP. JURISPRUD. 76 (2015).

In India, legal frameworks like the Information Technology Act, 2000, the Indian Contract Act, 1872, and the Consumer Protection Act, 2019, support ADR in resolving online disputes. Additionally, various case laws, including *Airbnb Ireland UC v. Residential Tenancies Board* and *Twitter, Inc. v. United States of America*, illustrate successful resolutions through ADR.

Overall, as technology advances and more activities shift online, the role of ADR in resolving disputes related to social media and online platforms becomes increasingly crucial. ADR offers a valuable means to address these challenges, ensuring that disputes are resolved fairly, efficiently, and cost-effectively.

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