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ODR: A NEW DIMENSION OF ADR SYSTEM IN INDIA

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ABSTRACT

Online Dispute Resolution (ODR) has emerged as a competitive alternative to conventional Alternative Dispute Resolution (ADR) techniques as a result of the profound impact that technological advancements have had on the dispute resolution environment. By using digital platforms, ODR makes dispute resolution easier and offers a quick, affordable, and convenient way to settle disputes. The development of ODR within the larger ADR framework is examined in this research, along with its benefits, drawbacks, and possible uses. ODR has a number of important advantages, including improving the effectiveness of conflict resolution, cutting costs, and expanding access to justice. But the study also highlights how crucial it is to have a robust legislative framework, make sure that digital infrastructure is in place, and have skilled experts on hand to help ODR expand. ODR holds significant potential to revolutionize the dispute resolution process, but its success hinges on a number of obstacles, such as the requirement for uniform procedures and technological constraints. In conclusion, this paper aims to contribute to the ongoing discussion about ODR's role in the future of dispute resolution, highlighting its potential to reshape the way conflicts are resolved in an increasingly digital world.

Keywords: Online Dispute Resolution (ODR), Alternative Dispute Resolution (ADR), Technology, Dispute Resolution, Digital Infrastructure.

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I. INTRODUCTION

Alternative Dispute Resolution (*hereinafter* referred to as “ADR”) has significantly evolved in India as a mechanism for settling disputes between parties. Traditionally, the settlement of conflicts was predominantly linked to a physical location, namely the courts, this idea has somewhat changed since the introduction of ADR. The Justice's future cannot be limited to the courtroom. As stated, the court should be like a service and not a place.³ This could be one such service that is available, strong, understandable, widespread, resilient, and created using an outcome-focused framework. In today’s increasingly digital world, technology is transforming almost every aspect of our daily lives, including the way disputes are resolved. Today, technology is the means by which the following subsequent generations is revolutionizing the environment for dispute settlement globally. One of the components of the legal system nowadays is technology. The court used an electronic virtual platform to hear the case.⁴

We know that initially, courtrooms were typically used to settle disputes, and parties involved had to personally attend the court hearing. We have been forced to make changes because to the COVID-19 epidemic. This doesn't mean that we are not working to incorporate technology into our justice system, but COVID-19 has put pressure on it to spread. Therefore, courts and conflict resolution centers have started holding hearings via video calls during COVID-19. Due to the COVID-19 epidemic, conventional approaches of conflict resolution are currently being questioned. During these hardships, technology has evolved into a sign of transformation and a counterbalance to the situation. Online Dispute Resolution (*hereinafter* referred to as “ODR”), is leading this technological transformation.⁵ ODR is an innovative extension of ADR that leverages technology to offer more efficient, accessible, and cost-effective ways to resolve conflicts.

II. COMPREHENDING OF ONLINE DISPUTE RESOLUTION

In its simplest form, ODR is a procedure that uses information technology to "resolve" conflicts. ODR is still a developing idea. ODR is, at its most basic, Application of Information

³ Susskind, Richard. *Online Courts and the Future of Justice*. 1st ed., Oxford University Press, 2019, p. 119.

⁴ E-Committee, Supreme Court of India. “Virtual Courts.” Official Website of e-Committee, Supreme Court of India, <https://ecommitteesci.gov.in/service/virtual-courts/>. Accessed 20 Feb. 2025.

⁵ NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 1.

Technology tools to help parties to settle their disputes.⁶ This process takes place in two distinct locations, usually online, in contrast to the traditional manner where the disputants must be present. There are two ways to look at this: first, it is an extrajudicial conflict resolution process that uses online dispute resolution tools from ODR providers, which is distinct from the traditional court system. According to examples observed globally, ODR shares its foundations with ADR procedures including arbitration, mediation, and negotiation in its initial stage.⁷ The majority of early ODR initiatives have, in this sense, replicated ADR procedures by utilizing basic ICT tools collectively.⁸

However, ODR should not be interpreted as merely e-ADR. At a higher level, ODR can serve as the fourth party by assisting parties in finding solutions through algorithmic tools. These technologies can include machine learning, automated resolution, smart negotiation tools, and intelligent decision support systems. Through procedures designed specifically for each party and their dispute, ODR may eventually also provide multi-door conflict resolution.⁹ With the aid of technological tools, these customized procedures can be created to provide the best possible conflict resolution for each and every disputant.

The American Bar Association (ABA) Task Force on ADR and E-commerce provides a definition for this concept the term "online dispute resolution" refers to an extensive range of ADR methods that use websites, email, streaming media, Internet, and other information technologies to resolve disputes. When taking part in ODR, parties might never actually meet in person. Instead, they might only speak to each other online.¹⁰ Another way to describe online dispute resolution is the advancement of computer networks, software, and apps for using alternative dispute settlement techniques.

III. BACKGROUND AND ORIGIN OF ODR

The development of the internet throughout the nineties, which led to a surge in online transactions and disputes pertaining to those transactions, is where ODR got its start. In general,

⁶ Zheng, Jie. *Online Resolution of E-commerce Disputes: Perspectives from the European Union, the UK, and China*. Springer International Publishing, 2020, p. 35.

⁷ Rule, Colin. "Is ODR ADR." *International Journal of Online Dispute Resolution*, vol. 3, 2016, p. 8.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Davis, Benjamin G. "Building the Seamless Dispute Resolution Web: A Status Report on the American Bar Association Task Force on E-commerce and Alternative Dispute Resolution." *Texas Wesleyan Law Review*, vol. 8, 2002, p. 530.

ODR's global development can be split into three stages.¹¹

1. Initial Stage: eBay's trial sets the standard.

In 1996, the first ODR project endeavors were started by the Universities of Maryland and Massachusetts.¹² With the growth development of e-commerce and the evolution of the online world in the latter part of the 1990s, a strong system was needed to handle disputes resulting from online business transactions.¹³ Nearly simultaneously, some early e-commerce companies pioneered ODR. eBay began a trial run in 1999 to offer online mediation services for disagreements between its platform's buyers and sellers.¹⁴ In two weeks, the trial run resolved two hundred conflicts, which is by far the most disagreements ever resolved online. Due to this, eBay now offers dispute resolution to both buyers and sellers in the case that a transaction does not go through. eBay initially hired SquareTrade, an online startup, to handle its dispute settlement procedure before acquiring it a few years later.¹⁵ Over the following ten years, eBay's dispute resolution volume increased steadily, achieving more than 60 million disputes a year by 2010 using its ODR Platform.¹⁶

2. The Second Stage: Amplification of ODR start-ups

In the second Stage of ODR, this model's success and the internet's explosive growth sparked ODR's development and the emergence of ODR platforms. In 1999, Up to twenty-one new ODR initiatives were introduced, compared to just 9 the year before. By 2004, the figure had risen to 115.¹⁷ Even the Internet Corporation for Assigned Names and Numbers (ICANN) established a policy for settling disputes about domain names.¹⁸ They settle domain name disputes; they begin offline and transition to the internet, but many firms fail in these markets; a select few, like Cybersettle, Smartsettle, and the Mediation Room, are succeeding. These have an effect in resolving disputes.

¹¹ NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 1.

¹² Katsh, Ethan. "ODR: A Look at History." Online Dispute Resolution: Theory and Practice, edited by Mohamed Abdel Wahab et al., EIP, 2013, p. 10.

¹³ Katsh, Ethan, et al. "E-Commerce, E-Disputes, and E-Dispute Resolution: In the Shadow of eBay Law." *Ohio State Journal in Dispute Resolution*, vol. 15, 2000, p.708.

¹⁴ Katsh, Ethan. "ODR: A Look at History." Online Dispute Resolution: Theory and Practice, edited by Mohamed Abdel Wahab et al., Eleven International Publishing, 2013, p. 14.

¹⁵ Katsh, Ethan, et al. "E-Commerce, E-Disputes, and E-Dispute Resolution: In the Shadow of eBay Law." *Ohio State Journal in Dispute Resolution*, vol. 15, 2000, p.705.

¹⁶ Del Duca, Louis F., et al. "eBay's De Facto Low Value High Volume Resolution Process: Lessons and Best Practices for ODR Systems Designers." *Yearbook on Arbitration and Mediation*, vol. 6, 2014, pp. 204-205.

¹⁷ Mania, Karolina. "Online Dispute Resolution: The Future of Justice." *International Comparative Jurisprudence*, vol. 1, 2015, p. 78.

¹⁸ Uniform Domain Name Dispute Resolution Policy. ICANN Archives, 26 Aug. 1999, <https://archive.icann.org/en/udrp/udrp-policy-24oct99.htm>. Accessed 25 Feb. 2025.

3. The Third Stage: Acceptance by the authorities and courts

Governments were interested in this recent development in the ecosystem of conflict settlement because a few of these commercial ODR platforms had been successful. The New York City implemented an ODR mechanism created by Cybersettle in 2004 as one of the initial steps toward this deployment in order to speed up the resolution of the claims of personal injury and clear their backlog. This led to an astounding 66 percent of settlements within 30 days of the disputes being submitted, and an 85 percent reduction in settlement time.¹⁹

Later, governments all over the world embraced online dispute resolution (ODR) programs more and more. These programs use technology and the internet to efficiently settle conflicts. Initiatives such as the online dispute resolution portal of the European Union and Brazil's Consumidor.gov demonstrate the trend toward online dispute settlement for consumers. By removing geographical restrictions and cutting down on time and expense, ODR simplifies the dispute resolution process. Although the technology functions flawlessly, there are specific issues with enforceability and data security. Essentially, ODR is a progressive strategy for creating an inclusive and easily accessible legal system in the digital age.²⁰

IV. BENEFITS OF ONLINE DISPUTE RESOLUTION

The Information and Communication Technology (*hereinafter* referred to as ICT) integration into dispute-resolution procedures offers great efficiency and the ability to deal with issues that are commonly connected with the ADR mechanism and courts. Some of the main benefits of ODR are as follows:

- A. Cost-effective:** The expenses of court dispute resolution are, as we all know, extremely high. The whole procedure appears to be a hardship and something like punishment, and it can be financially draining. ODR provides both parties a cost-effective substitute. By its core characteristics, ODR eliminates the requirement for travel or facility rental in order to resolve disputes. Furthermore, it can lower legal costs by cutting down on time.²¹

¹⁹ Online Dispute Resolution Advisory Group. Online Dispute Resolution for Low Value Civil Claims. Civil Justice Council, 2015, p. 15.

²⁰ Nigam, Snigdha. "Online Dispute Resolution (ODR) in India." TaxGuru, <https://taxguru.in/corporate-law/introduction-online-dispute-resolution-odr-india.html>. Accessed 25 Feb. 2025.

²¹ Goodman, Joseph W. "The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites." *Duke Law & Technology Review*, vol. 2, 2003, p. 7.

In addition to these direct expenses, businesses may incur additional indirect costs as a result of protracted legal actions. For example, businesses observe a reduction in individuals' well-being, a decline in investor confidence, a reduction in investments, and a slower rate of economic growth because of lost productive time. Although ODR cannot totally address all of these effects, it can lessen them, which makes it cost-effective.²²

- B. *Convenient and Quick:*** Among the main issues facing India's legal system has been the backlog of cases in courts throughout the country. According to the India Justice Report, 2022, in 23 Cases in District Courts in 23 States and Union Territories typically take five years or longer to resolve.²³

Alternative dispute resolution (ADR) and online dispute resolution (ODR) provide a quicker and easier method of settling conflicts. The effectiveness of ADR is increased by its simpler processes and set deadlines. ODR supplemented them by eliminating the difficulty of travel and timetables. When feasible, an ODR enables parties to express their arguments, even if they are not concurrently communicating online. Their schedule-related issues are resolved in a useful way when disputes arise between individuals from various locations. This is beneficial to those working in industries like e-commerce since it provides a centralized platform for customers to swiftly and conveniently settle their complaints without having to be present in person. It works well for settling conflicts beyond national boundaries.²⁴

- C. *Customizable Processes:*** With the development of ADR, it has introduced a variety of variations, including arbitration-mediation-arbitration and mediation-arbitration. ODRs didn't employ the conventional approach, and using the artificial approach can result in an infinite number of possible model types. This makes it possible to organize and personalize dispute resolution procedures, which increases their cost-effectiveness and suitability for a given situation.²⁵

- D. *Promotes the settlement of disputes:*** By addressing important issues including the expense of conflict resolution, the inaccessibility of physical courts or ADR centers, and the obstacles resulting from disability, ODR can greatly enhance access to a range

²² NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 13.

²³ India Justice Report 2022. Tata Trusts, 2023, p. 26.

²⁴ NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 13.

²⁵ Rule, Colin. "Is ODR ADR." *International Journal of Online Dispute Resolution*, vol. 3, 2016, p. 9.

of dispute settlement techniques.²⁶ ODR facilitates the resolution of conflicts between parties in the comfort of their own homes, increasing accessibility, enhancing the entire experience, and motivating parties to choose formal resolution over informal resolution.

E. Environmentally friendly: The environmental benefits of ODR services over Conventional dispute settlement services are a less well-known advantage of ODR. ODR provides a way to settle conflicts that is more environmentally friendly. Carbon emissions can be decreased, for instance, by employing an online court or virtual mediation session. There is less travel required, less electricity is used, and less printing is required. Even if a single court case or mediation may have a very minor environmental impact, the whole effect is significant.²⁷

F. Minimizes the impact of implicit prejudice: As awareness of race, caste, and gender justice has grown, many individuals are worried about how biases, prejudices, and stereotypes affect the procedures and results of decision-making. The results of mediation can be impacted by unconscious bias and a fear of Engaging with people from different backgrounds, according to studies.²⁸ ODR procedures can reduce the Neutral's unconscious prejudice while settling conflicts. ODR platforms, particularly those that rely on emails and texts, disentangle audio-visual indications about gender, social standing, race, ethnicity, and other factors. They also assist in settling conflicts based upon the information and claims made by the parties in dispute rather than their identities.²⁹

ODR has the ability to completely transform India's dispute resolution process and offers a number of benefits over conventional dispute resolution techniques, which makes it a desirable choice for parties looking for a quick, affordable, and easily accessible procedure for resolving disputes.

V. OUTLINE OF ONLINE DISPUTE RESOLUTION IN INDIA

In the last 20 years, the ODR ecosystem has grown exponentially worldwide. ODR is a present-day idea which has acquired popularity in India in recent years.³⁰ Despite being in its early

²⁶ Online Dispute Resolution Report 2018. Ministry of Business, Innovation & Employment, 2018, p. 11.

²⁷ *Ibid*, p. 12.

²⁸ Izumi, Carol. "Implicit Bias and Prejudice in Mediation." *SMU Law Review*, vol. 70, 2017, p. 685.

²⁹ Austin, Charlotte. "Online Dispute Resolution – An Introduction to Online Dispute Resolution (ODR), and Its Benefits and Drawbacks." Government Centre for Dispute Resolution, Ministry of Business, Innovation and Employment, New Zealand Government, 2017, p. 14.

³⁰ Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. "Online Dispute Resolution (ODR) in India: Opportunities, Challenges, and Future Prospects." *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p. 756.

phases of ODR development, India has demonstrated early promise in integrating ODR at the government, private sector, and judiciary levels. A new strategy for utilizing internet and ICT technologies is needed in India's judiciary. A strong techno-legal e-court framework is necessary to fully utilize e-governance in the legal domain. It is essential that the judicial system prioritize ICT and e-court training. Additionally, case backlogs can be greatly reduced by incorporating Online Dispute Resolution (ODR) into e-courts. Urgent action is needed to fully harness the power of ICT within the existing legal infrastructure. To properly utilize ICT within the current legal framework, immediate action is required.³¹

ODR has mostly been utilized in India to settle e-commerce disputes, but in the last few years, as the popularity of online marketplace has grown, its use has expanded dramatically. Nevertheless, ODR is now also utilized in other contexts, including family, business, and even criminal disputes. Online platforms including e-courts, state legal service authorities, and private ODR providers are the primary means of conducting Online Dispute Resolution in India.

1. Applicability of ODR in India

ODR is a method that can be applied to different areas such as

- a) Public Sector
- b) Private Sector

In the current judicial and quasi-judicial system, ODR is useful in the public sector and private sector, Online ADR is utilized in many of contexts, including labour disputes, financial conflicts, cyberspace, domain name disputes, e-commerce, and more.³²

2. Growth and Development of ODR in India

It has taken a while for ODR to grow and spread throughout India. When the concept of ODR was first presented in India in the early 2000s, a few institutions began to experimenting with it. However, ODR was only used in a few industries, including banking, insurance, and e-commerce. As internet usage has increased over time, there is a growing need for an efficient and cost-effective dispute resolution procedure. The number of disputes has increased along with the number of people using the Internet for transactions. There are numerous ODR platforms created to address this problem, providing a productive and economical dispute resolution process.³³

³¹ *Ibid.*

³² Benyekhlef, Karim, and Fabien G  linas. "Online Dispute Resolution." *Lex Electronica*, vol. 10, no. 2, 2005, p. 47.

³³ Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. "Online Dispute Resolution (ODR) in India:

An additional element that has contributed to ODR's success in India is government assistance. The government of India has taken a number of actions to promote the use of ODR after realizing its potential. For example, the E-Courts Project was started by the Ministry of Law and Justice with the aim of offering ODR resources for courtroom dispute settlement. ODR in India appears to have a bright future thanks to the rise of new ODR service providers, government support, and growing internet usage.

3. Examples of ODR Initiatives

- (a) **Introduce E-Committee:** An E-committee was formed by the Supreme Court in 2005 to organize the application of information and communication technologies in the legal system. ODR development was sluggish until the COVID-19 epidemic struck, but the judiciary gave it top priority after that.³⁴
- (b) **Open Centre for OCMC:** Little progress was made in the ODR after 2006 because government agencies and ministries take many major actions to promote the system's integration with ODR. As an example, the Ministry of Consumer Affairs' establishment of the online consumer mediation centre (OCMC) at the National Law School of India University in Bengaluru in 2016.³⁵
- (c) **Launched samadhaan portal:** The Ministry of Micro, Small and Medium Enterprises (MSME) launched the SAMADHAAN portal in 2018 to address delayed payment dispute for micro and small enterprises. It can save time, money, and resolve the payment delay issue.³⁶
- (d) **Introduce Digital India Campaign:** The Indian government started the Digital India campaign in 2015 to address sectors that have previously experienced digitalization, such as banking, finance, tourism, and education. The digital world connects in a manner previously unthinkable, avoiding the issue of the physical world.³⁷

Opportunities, Challenges, and Future Prospects.” *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p. 757.

³⁴ Supreme Court of India. *eCommittee Supreme Court of India*, <https://ecommitteesci.gov.in/>. Accessed 25 Feb. 2025.

³⁵ National Law School of India University. *Online Consumer Mediation Centre*, <https://www.nls.ac.in/centres/online-consumer-mediation-centre/>. Accessed 25 Feb. 2025.

³⁶ Ministry of Micro, Small and Medium Enterprises, Government of India. *MSME SAMADHAAN - Delayed Payment Monitoring System*, https://samadhaan.msme.gov.in/MyMsme/MSEFC/MSEFC_Welcome.aspx. Accessed 25 Feb. 2025.

³⁷ “Vans to Drive Awareness for Digital India.” *The Indian Express*, 22 June 2016, <https://indianexpress.com/article/technology/tech-news-technology/digital-india-ravi-shankar-prasad-narendra-modi-digital-india-awareness-2825045/>. Accessed 25 Feb. 2025.

- (e) **Launched E-ADR:** E-alternate dispute resolution (E-ADR), was introduced in 2019 with the assistance of legal professionals as well as leaders of the business and society. This idea aims to go into the legal system and create an Alternative Dispute Resolution platform that uses cutting-edge technology to settle conflicts. The companies has begun establishing an Indian Dispute Resolution (IDR) start-up ecosystem across the nation and operates as an igniting agent.³⁸
- (f) **Launched vivaad se vishwas:** In February 2020, the government of India launched the VIVAAD SE VISHWAS project³⁹ with the goal of effectively resolving tax disputes by using ODR. It uses ODR to swiftly settle disputes. The judiciary was already overloaded with cases that needed to be resolved, and COVID-19 restrictions made matters worse. Nevertheless, ODRs proved to be successful during COVID-19.
- (g) **UPI Dispute Redressal Mechanism:** All payment system operators (PSPs) were instructed by the National Payments Corporation of India (NPCI) to establish an Online Dispute Resolution (ODR) mechanism, which was a major step in improving consumer safety in digital payments. In order to effectively manage complaints and disputes pertaining to failed transactions inside their individual payment systems, this method was created.⁴⁰
- (h) **SEBI Complaints Redress System (SCORES) portal:** The Securities and Exchange Board of India (SEBI) established an online process for investors' dispute settlement in August 2023. The initial step for investors is to lodge a complaint with the relevant market participant. They can bring the matter to SEBI's SCORES portal if the issue continues.⁴¹

³⁸ NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 58.

³⁹ Bhatia, Dr. Jyoti M. "Dispute Settlement Scheme in Income Tax: An Overview." *Andrean Research Journal*, vol. VII, Nov. 2020, p. 88.

⁴⁰ Salunke, Smruti Abhijit. "Online Dispute Resolution System for Digital Payments in India." *International Journal of Law Management & Humanities*, vol. 5, no. 3, 2022, p. 1569.

⁴¹ Securities and Exchange Board of India (SEBI). Master Circular for Online Dispute Resolution, SEBI Circular No. SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/145 (31/07/2023), 31 July 2023, https://www.sebi.gov.in/legal/master-circulars/aug-2023/online-resolution-of-disputes-in-the-indian-securities-market_75220.html. Accessed 25 Feb. 2025.

VI. EXISTING LEGISLATIONS RELATED TO ODR IN INDIA

Basically, ODR is Alternative Dispute Resolution which done online. There are four statutes in India that deal with ADR and online dispute resolution mechanisms; below are the pertinent provisions:

1. The Arbitration and Conciliation Act, 1996

There is more room for alternative dispute resolution (ADR) than traditional arbitration and conciliation, as specified by the Arbitration and Conciliation Act, 1996, which superseded the 1940 legislation, which was widely criticized on the following grounds: jurisdiction and arbitrability, suit stay, and the court's power to intervene. This legislation is a landmark development in Indian ADR, as it strongly advocates for conciliation and allows for its application at any time, including during sub-judice proceedings.⁴²

2. The Code of Civil Procedure, 1908 (CPC),

Given the increase in court cases and the limitations placed by the Arbitration and Conciliation Act 1996, Section 89 of CPC was reinstated by the 1999 amendment, effective from 2002. It was permitted to settle lawsuits through Lok Adalat, conciliation, arbitration, and mediation. Additionally, Order X of the CPC was amended, and Rules 1A, 1B, and 1C were added.⁴³ One should keep in mind that when the court's case is sent to arbitration, the “entire The Arbitration and Conciliation Act, 1996 applies to the proceedings” as though it were in accordance with that Act.⁴⁴

Section 89 is a special provision that is not even found in either the American or European contexts. It seems that the section's goal is threefold. First and foremost, it seeks to swiftly conclude litigations. Secondly, it promotes ADR. Most significantly, it has granted ADR settlements the judicial seal of authority, making them legally binding as orders of the court. It must also be observed that ODR is not immediately provided an impetus under these rules. Courts went online only in the pandemic, and it's unclear if this trend will gain traction and become the standard later on.⁴⁵

3. The Information Technology Act, 2000

In the context of ADR, when online dispute resolution platforms emerged, the

⁴² Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. “Online Dispute Resolution (ODR) in India: Opportunities, Challenges, and Future Prospects.” *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p. 760.

⁴³ Law Commission of India. 238th Report on Amendment of Section 89 of the Code of Civil Procedure, 1908 and Allied Provisions, p. 7.

⁴⁴ Sarkar, S.C., et al. Code of Civil Procedure. 13th ed., 2 vols., LexisNexis, 2022, pp. 431-45.

⁴⁵ *Ibid.*

Information Technology Act of 2000 was the true game-changer. The use of electronic records to replace traditional paper-based records was recognized, and digitally signed electronic records may actually be used to finish a proceeding. Statutory recognition was accorded to electronic records and digital signatures by Sections 5 and 6 of the IT Act 2000.⁴⁶

This allowed for the arbitrating of agreements or for other types of ADR to be digitally entered into. Ever since this law was passed in 2000, online dispute resolution procedures are now allowed by law to be utilized for alternative dispute resolution. This Act facilitates India's expanded network coverage, e-commerce participation, and ODR through Alternate Dispute Resolution Mechanisms.⁴⁷

4. Bharatiya Sakshya Adhiniyam, 2023

In order to further stimulate IT Act, Sections 62 and 63 of the Bharatiya Sakshya Adhiniyam, 2023, which deal with the admissibility of electronic records and outline specific procedures, were introduced. Videos of video conferences and audio CDs are acceptable evidence under these Sections.⁴⁸ This gives our nation's ODR through ADR a much-needed boost.

ODR's legal structure in India is still developing, but as the practice gains traction, additional laws and rules are anticipated to be passed to control its use in the country.

VII. CHALLENGES TO ODR IN INDIA

Despite ODR's enormous potential to offer effective and efficient dispute resolution, there are several obstacles to its incorporation into the mainstream dispute resolution ecosystem. A number of factors are necessary for the successful execution of ODR, including the availability of safe and dependable technological tools, digital framework to facilitate use, the willingness of parties to embrace a new method of resolution, and the cooperation and support of lawyers, the judiciary, and the government to ensure the enforcement of agreements and awards, among others.

1. Digital infrastructure

Strong national technological infrastructure is a prerequisite for ODR integration. This

⁴⁶ The Information Technology Act, 2000. Act No. 21 of 2000.

⁴⁷ Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. "Online Dispute Resolution (ODR) in India: Opportunities, Challenges, and Future Prospects." *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p. 760.

⁴⁸ Manohar, V. R., editor. *Ratanlal & Dhirajlal on the Law of Evidence*. 27th ed., LexisNexis, 2019, pp. 468-471.

includes having medium- to high-bandwidth internet connectivity, smartphones, and Computers for at least the duration required to have productive hearings. Without such requirements, people with less access to digital infrastructure probably going to be at a disadvantage. Unfortunately, these digital resources aren't easily accessible to everyone.⁴⁹

The government has to focus on our internet infrastructure to make this better. In 2018, the government started The National Digital Communication Policy-2018 in order to bolstering the communication system and providing dependable internet access. The National Broadband Mission 2.0 follows its 2019 predecessor, with new targets for the telecom industry in expanding fiber connectivity and 5G coverage across India. National Broadband Mission 2.0 aims to expand fiber to 2.7 lakh villages by 2030.⁵⁰

2. Digital literacy

Apart from digital infrastructure, ubiquitous digital literacy is required in order for ODR. Digital literacy in India frequently differs by age, ethnicity, and location etc. For instance, according to the Indian Telecom Services performance Indicators April-June, 2024, Urban Internet Subscribers per 100 population is about 112 and Rural Internet Subscribers per 100 population is about 45.⁵¹

To create the ODR system beneficial to everyone, the government must close this digital divide. Programs aimed at increasing internet coverage in rural regions are necessary to do this, as are focused efforts to raise awareness of the fundamental skills needed to access ODR services. Projects like the Pradhan Mantri Gramin Digital Saksharta Abhiyaan (PMGDISHA) will significantly contribute to ensuring that even the most isolated and marginalized segments of society have access to justice.⁵²

3. Lack of Knowledge about ODR

Due to a lack of knowledge about ODR, businesses and litigants now have poor confidence within ODR procedures, and its use is limited in areas with enormous promise, such consumer disputes and MSME.

⁴⁹ Goodman, Joseph W. "The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites." *Duke Law & Technology Review*, vol. 2, 2003, p. 7.

⁵⁰ "National Broadband Mission 2.0 Aims to Expand Fiber to 2.7 Lakh Villages by 2030." *The Hindu*, <https://www.thehindu.com/incoming/national-broadband-mission-20-aims-to-expand-fiber-to-27-lakh-villages-by-2030/article69109130>. Accessed 21 Feb. 2025.

⁵¹ Telecom Regulatory Authority of India. *The Indian Telecom Services Performance Indicators*. Report, Apr.-June 2024, p. 43.

⁵² "Pradhan Mantri Gramin Digital Saksharta Abhiyaan." *MyScheme*, Government of India, 2024, <https://www.myscheme.gov.in/schemes/pmgdisha>. Accessed 25 Feb. 2025.

4. Lack of trust in ODR services

The problem of low trust in ODR is related to the previous point. Due to a lack of comprehensive understanding, a lot of individuals are hesitant to use ODR services. Some individuals are unsure about the technology itself; some people wonder if the ODR's results can be implemented, particularly with regard to the efficacy of using new technology or avoiding face-to-face engagement, as well as data security concerns.⁵³

5. Privacy and confidentiality concerns

New privacy and confidentiality issues arise as a result of increased technological integration and less in-person interactions, particularly in dispute resolution.⁵⁴ Concerns include the possibility of tampering with digital evidence, internet fraud, and illegal sharing of documents and data. The ODR service provider needs to give framework management and data storage top priority in order to fix this. It is imperative to implement security measures like document encryption and digital signatures.⁵⁵

VIII. RECOMMENDATIONS TO OVERCOME INDIA'S ODR CHALLENGES

Online dispute resolution (ODR), as is well known, has the ability to significantly alter the nature of the legal system through excluding travel, delivering swift judgments free of bias, and being inexpensive; Artificial intelligence and ODR combined to increase ODR capacity. The issues that ODR in India is facing have a number of potential solutions:

1. Advancement of Digital Infrastructure

The government needs to improve both rural and urban areas' digital infrastructure. One important stage in the evolution of ODR is digital infrastructure. The government has already started to build digital infrastructure, including the BharatNet Project, which seeks to give rural areas access to broadband around 2.5 lakh gram panchayat.⁵⁶

So far, as on 13.01.2025 a 2, 14,323 Gram Panchayats are linked by means of the BharatNet project and 6, 92,676 Km of OFC has been laid. Additionally, 12, 21,014

⁵³ NITI Aayog. "Designing the Future of Dispute Resolution: The ODR Policy Plan for India." Report of the NITI Aayog Expert Committee on ODR, 2021, p. 62.

⁵⁴ Austin, Charlotte. "Online Dispute Resolution – An Introduction to Online Dispute Resolution (ODR), and Its Benefits and Drawbacks." Government Centre for Dispute Resolution, Ministry of Business, Innovation and Employment, New Zealand Government, 2017, p.19.

⁵⁵ Van Den Heuvel, Esther. "ODR as a Solution to Cross Border E-Disputes." University of Utrecht, Aug. 2000, p. 8.

⁵⁶ "BharatNet Project." Universal Service Obligation Fund, Ministry of Communications, Government of India, <https://usof.gov.in/en/bharatnet-project>. Accessed 25 Feb. 2025.

Fibre-To-The-Home (FTTH) connections are commissioned and 1, 04,574 Wi-Fi hotspots are installed to ensure last-mile connectivity. Enhancing e-health, e-education, and e-governance are the project's goals.⁵⁷

2. Advancement Digital Education

Having physical access to technology and infrastructure is not the only way to access digital infrastructure. Users of such technology have to be digitally educated in order to fully utilize it. Technological understanding is necessary for growing ODR. For that, the state has taken action for fostering digital literacy start programs such as Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA) by The Ministry of Electronics and Information Technology. The scheme has ended, as against 6 crore, 6.39 crore individuals were trained throughout the nation as on March 31, 2024.⁵⁸

3. Establish credibility and educate people about ODR

To raise knowledge of and promote trust in ODR, the government, ODR Organizations, legal experts, ODR platforms, and the judiciary must work together. The government takes action by identifying ADR and ODR service providers and disseminating accurate information about them. The development of this trust requires the cooperation and coordination of all parties involved, including the government, the judiciary, ODR/ADR institutions, lawyers, and neutrals. In order to recognize ADR and ODR service providers.

Using a list of this kind, the government may give consumers a comprehensive overview of the industries that the institutions are now serving as well as the services they offer, such as e-arbitration and e-mediation. Then, such a list can be distributed, between PSUs and Government Departments to allow them to select services suppliers who meet their specified requirements.

4. Standardization and Certification

A system of standardization and certification is crucial for improving the quality and credibility of ODR providers. This may be fulfilled through the establishment of accreditation bodies that assess, evaluate and certify ODR providers based on precise criteria.⁵⁹

⁵⁷ *Ibid.*

⁵⁸ "Press Release." Press Information Bureau, Government of India, <https://pib.gov.in/PressReleasePage.aspx?PRID=2080854>. Accessed 26 Feb. 2025.

⁵⁹ Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. "Online Dispute Resolution (ODR) in India: Opportunities, Challenges, and Future Prospects." *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p.763.

5. Data Security and Privacy

Data security and privacy are major concerns in ODR due to the growing use of private information in online transactions. To address this, ODR providers must set up strong data security policies and procedures and abide by the relevant data protection regulations.⁶⁰

6. Legal Framework

In India, the ODR legal framework is still evolving, and several gaps remain that must be addressed. The government must implement clear and thorough laws and regulations governing ODR in India in order to overcome this obstacle.⁶¹

7. Mediator and Arbitrator Training

It is imperative to ensure that mediators and arbitrators involved in ODR are qualified, trained, and certified. This will contribute to the process being fair, unbiased, and effective.⁶²

8. User-Friendly Platforms

ODR platforms should be user-friendly and available to everyone, encompassing those with limitations or who are not computer-savvy. Platforms also ought to be available in multiple languages to accommodate India's diverse population.⁶³

The government, ODR providers, and other stakeholders will need to work together to manage these issues. By doing this, ODR can develop into a more effective, efficient, and accessible method of resolving conflicts in India.

IX. CONCLUSION

India is currently in the early phases of ODR, but it has an ability to significantly alter the nation's established conflict resolution procedures. ODR has many benefits, including cost-effectiveness, accessibility, ease of use, and quicker dispute resolution. However, notable obstacles also exist to ODR adoption in India, including a lack of infrastructure, understanding, and confidence in online services.

ODR has a bright future in India since businesses are embracing ODR systems at an increasing

⁶⁰ *Ibid.*

⁶¹ Naidu, Dr. P. Jogi, and Bhagavatula Naga Sai Sriram. "Online Dispute Resolution (ODR) in India: Opportunities, Challenges, and Future Prospects." *International Journal of Legal Science and Innovation*, vol. 6, no. 4, 2024, p. 764.

⁶² *Ibid.*

⁶³ *Ibid.*

rate and the authorities have already taken action to encourage its adoption. But in order to guarantee its widespread use, adoption issues must be resolved.

According to the research paper's conclusions, ODR may be able to improve dispute resolution in India; however, in order to overcome the obstacles and establish an environment that encourages its use, all stakeholders involved must work together. Future ODR implications in India include a more effective and efficient system of dispute settlement that is available to everyone, especially in the era of digitalization.

