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**ALTERNATE DISPUTE RESOLUTION AND ONLINE
DISPUTE RESOLUTION: A CRITICAL STUDY OF
LEGAL FRAMEWORK, JUDICIAL APPROACH AND
CONTEMPORARY CHALLENGES IN INDIA**

AUTHORED BY - AYUSH PANDEY

Research Paper, LL.B. HONS., Semester X

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CERTIFICATE

This is to certify that the minor project entitled **“Alternate Dispute Resolution and Online Dispute Resolution: A Critical Study of Legal Framework, Judicial Approach and Contemporary Challenges in India”** submitted by Ayush Pandey to **UNIVERSITY OF LUCKNOW**, Jankipuram Extension affiliated To Lucknow University, Lucknow, for the award of the degree of LL.B. Hons. is a bona fide work carried out by her under my supervision and guidance. The content of the Research Paper, in full or parts have not been submitted to any other institute or university for the award of any other degree or diploma.

Signed on:

Ayush Pandey

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DECLARATION

I hereby declare that the project titled "**Alternate Dispute Resolution and Online Dispute Resolution: A Critical Study of Legal Framework, Judicial Approach and Contemporary Challenges in India**" researched and submitted by me to University of Lucknow, Lucknow in partial fulfillment of the requirements award for the of the Degree of Bachelors of law and this work is an original and bona fide work carried out in academic interest. This has not been submitted qualification to by me or anyone else for award of any other degree or this or any other university. The views expressed in this work are mine and do not represent any person, organization or community.

Ayush

Pandey LL.B. Hons.

Semester X

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Furthermore, I don't claim all the information in this dissertation is included perfectly. There may be shortcomings, factual error, mistaken opinion which are all mine and I alone am responsible for those.

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ABSTRACT

The administration of justice is a fundamental function of the legal system, yet conventional litigation is often criticised for delays, high costs and procedural complexity. These challenges have led to the growing importance of Alternative Dispute Resolution (ADR) mechanisms such as arbitration, mediation, conciliation and Lok Adalats. In recent years, technological advancement and the rapid expansion of the digital economy have further contributed to the emergence of Online Dispute Resolution (ODR), which integrates digital technologies with traditional ADR processes to facilitate efficient and accessible dispute resolution.

This Research Paper examines the legal framework, practical significance and contemporary challenges associated with ADR and ODR in India. It analyses the constitutional basis of alternative dispute resolution, relevant statutory frameworks including the Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987 and the Mediation Act, 2023, and evaluates the role of judicial decisions in promoting and regulating ADR mechanisms. The study further explores the concept and evolution of ODR, its legal validity under Indian law, and its growing application in consumer, commercial, financial technology and e-commerce disputes.

The research adopts a doctrinal methodology based on the analysis of statutes, judicial precedents, Law Commission Reports, government publications, scholarly writings and international instruments. A comparative study of selected jurisdictions, including the United Kingdom, the United States, Singapore and the European Union, has also been undertaken to identify global best practices and potential reforms relevant to the Indian context.

The study finds that ADR and ODR possess significant potential to improve access to justice by providing dispute resolution mechanisms that are faster, more flexible and more cost-effective than conventional litigation. At the same time, several challenges continue to affect their effectiveness, including institutional limitations, lack of awareness, digital inequality, cybersecurity concerns, confidentiality issues and the need to balance party autonomy with judicial oversight. The research concludes that while India has established a strong legal foundation for ADR and ODR, their long-term success depends upon effective implementation, institutional strengthening, technological inclusiveness and continued regulatory development.

The Research argues that ADR and ODR should not be viewed merely as alternatives to litigation but as essential components of a modern and accessible justice delivery system. With appropriate reforms and safeguards, these mechanisms can play a vital role in advancing the constitutional objective of ensuring affordable, efficient and meaningful access to justice for all.

List Of Abbrivations

- ADR – Alternative Dispute Resolution
- Art. – Article
- BSA – Bharatiya Sakshya Adhiniyam, 2023
- BNSS – Bharatiya Nagarik Suraksha Sanhita, 2023
- BNS – Bharatiya Nyaya Sanhita, 2023
- Del. – Delhi
- EU – European Union
- HC – High Court
- ICC – International Chamber of Commerce
- IPR – Intellectual Property Rights
- LCIA – London Court of International Arbitration
- No. – Number
- ODR – Online Dispute Resolution
- Pvt. Ltd. – Private Limited
- SCC – Supreme Court Cases
- SC – Supreme Court
- Sec./s. – Section
- UK – United Kingdom
- UNCITRAL – United Nations Commission on International Trade Law
- U.S. – United States
- v. – Versus
- WIPO – World Intellectual Property Organization
- WLR – Weekly Law Reports

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Chapter 1: Introduction

1.1 Introduction

Dispute resolution is an indispensable function of every legal system. The effectiveness of law is not determined merely by the existence of rights, duties and remedies, but by the manner in which disputes relating to those rights are resolved. In India, the formal court system continues to occupy the central position in the administration of justice; however, the pressure of pendency, procedural delay, litigation cost and limited judicial infrastructure has compelled serious reconsideration of traditional adjudication as the only meaningful path to justice. Alternate Dispute Resolution, commonly referred to as ADR, emerged in this context as a complementary mechanism which seeks to resolve disputes through processes such as arbitration, mediation, conciliation, negotiation and Lok Adalat. Its central promise lies in flexibility, party autonomy, speed, confidentiality and reduced adversarialism.¹

The constitutional relevance of ADR in India is closely connected with the idea of access to justice. Access to justice is not confined to physical access to courts; it includes the availability of affordable, effective, timely and fair mechanisms for dispute settlement. The Supreme Court has recognised access to justice as an essential component of the rule of law and as part of the guarantee of equality and life under Articles 14 and 21 of the Constitution.² Article 39A further obliges the State to ensure that justice is not denied by reason of economic or other disabilities. ADR, therefore, is not merely a private convenience for commercial parties; it is also a constitutional instrument for making justice more accessible, particularly in disputes where full-fledged litigation may be disproportionate, expensive or emotionally destructive.

The development of ADR in India has not been accidental. It has been supported by statutory intervention, judicial encouragement and institutional reform. The Arbitration and Conciliation Act, 1996 provides the principal statutory framework for arbitration and conciliation, while the Legal Services Authorities Act, 1987 gives legal recognition to Lok Adalats and Permanent Lok Adalats.³ More recently, the Mediation Act, 2023 has given mediation an independent statutory foundation and expressly seeks to promote institutional mediation, enforce mediated settlement agreements, encourage community mediation and recognise online mediation as an acceptable and cost-effective process.⁴ This legislative development shows a clear shift from informal settlement culture to a structured ADR ecosystem. The official text of the Mediation Act confirms that one of its objects is to make online mediation acceptable and cost-effective, which is especially significant for the present study.

¹ P.C. Rao and William Sheffield, *Alternative Dispute Resolution: What It Is and How It Works* 1-8 (Universal Law Publishing, Delhi, 1997).

² *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509.

³ The Arbitration and Conciliation Act, 1996, ss. 7, 19, 34 and 36; The Legal Services Authorities Act, 1987, ss. 19-22E.

⁴ The Mediation Act, 2023, No. 32 of 2023, Preamble and ss. 5, 17-29.

Online Dispute Resolution, or ODR, represents the technological expansion of ADR. It uses digital tools such as video conferencing, electronic filing, digital document exchange, e-signatures, automated case management, online negotiation platforms and sometimes artificial intelligence-assisted settlement systems to resolve disputes either fully or partially through online means. ODR is not a rejection of ADR; rather, it is an evolution of ADR in response to the digital economy. As commerce, banking, consumer transactions, employment relations, education services and public administration increasingly move to online platforms, disputes arising from such relationships also demand dispute resolution mechanisms that are equally accessible in digital form. The NITI Aayog has treated ODR as an important policy tool for improving access to justice and reducing the burden on courts, particularly in high-volume and low-value disputes.⁵

The contemporary relevance of ODR became more visible after the increasing use of video conferencing, e-filing, virtual hearings and digitised court processes in India. The e-Courts Mission Mode Project, monitored and funded by the Department of Justice, has introduced several digital measures such as video conferencing, virtual courts, e-filing, e-payments, digitisation of court records and case monitoring through the National Judicial Data Grid.⁶ These initiatives do not themselves amount to ODR in the strict sense, because court digitisation and ODR are conceptually different. However, they create a wider technological environment in which digital dispute resolution becomes more acceptable to litigants, lawyers, judges and institutions. Government material on the e-Courts project confirms the continuing emphasis on ICT-enabled justice delivery in India.

Despite these developments, ADR and ODR raise several legal and ethical concerns. Arbitration, though intended to provide speedy justice, has often been criticised for becoming expensive, procedural and court-dependent. Mediation, though flexible and settlement-oriented, raises questions relating to neutrality, confidentiality, power imbalance and enforceability. Lok Adalats have been praised for mass settlement of disputes, but concerns have also been raised regarding quality of consent and pressure to compromise. ODR adds further complexity because technological access is not equal across society. Digital illiteracy, language barriers, poor internet connectivity, privacy risks, data security threats and algorithmic opacity may prevent ODR from becoming genuinely inclusive unless proper safeguards are created.

The importance of judicial approach in this area cannot be ignored. Indian courts have repeatedly encouraged ADR as a means of reducing adversarial litigation and promoting speedy dispute resolution. In *Salem Advocate Bar Association (II) v. Union of India*, the Supreme Court upheld the importance of court-referred ADR mechanisms following the insertion of section 89 in the Code of Civil Procedure, 1908.⁷ In *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, the Court clarified the categories of cases suitable

⁵ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 15-25 (Government of India, 2021).

⁶ Department of Justice, Government of India, *e-Courts Mission Mode Project: Phase-wise Implementation and ICT Initiatives* (2026).

⁷ *Salem Advocate Bar Association (II) v. Union of India*, (2005) 6 SCC 344.

for ADR and gave practical meaning to court-referred dispute settlement.⁸ Although the Code of Civil Procedure continues to remain relevant for civil procedure, the present dissertation will avoid treating older criminal and evidentiary statutes as operative law and will use the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023 wherever criminal or evidentiary questions arise.

At the international level, ADR and ODR must also be examined in light of global commercial practices. UNCITRAL has recognised mediation and international settlement agreements as important instruments for resolving commercial disputes across borders. The UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018 reflects the global movement towards enforceable and harmonised mediation outcomes.⁹ Such developments are relevant for India because the Indian economy is increasingly integrated with cross-border trade, digital commerce and technology-based transactions. The success of India's ADR and ODR framework will therefore depend not only on domestic legislation but also on its compatibility with international standards.

The present dissertation proceeds on the premise that ADR and ODR are no longer peripheral alternatives to litigation. They form an essential part of the modern justice delivery system. However, their legitimacy depends upon whether they can preserve fairness, voluntariness, neutrality, enforceability and access to justice. A purely celebratory approach to ADR and ODR would be inadequate because efficiency cannot be achieved at the cost of procedural justice. At the same time, excessive judicial control may weaken party autonomy and defeat the very purpose of alternative dispute resolution. The central inquiry of this study, therefore, is to examine whether India's existing legal and institutional framework is capable of transforming ADR and ODR into credible, inclusive and enforceable mechanisms of justice.

ADR and ODR together represent a significant shift in the Indian legal system from court-centric adjudication towards flexible, participatory and technology-enabled dispute resolution. While ADR addresses the limitations of conventional litigation, ODR attempts to adapt dispute resolution to the realities of a digital society. However, their success depends upon legal certainty, institutional credibility, technological accessibility and procedural fairness. This dissertation will critically examine these dimensions and assess whether ADR and ODR can strengthen access to justice in India without compromising the fundamental values of the rule of law.

1.2 Background/Conceptual Framework

The conceptual foundation of Alternate Dispute Resolution lies in the recognition that adjudication by courts, though central to the rule of law, is not always the most suitable method

⁸ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

⁹ UNCITRAL, *Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation*, 2018.

for resolving every category of dispute. Litigation is public, formal, adversarial and bound by procedural rules. These features are necessary in many cases, especially where questions of public law, criminal liability, constitutional rights or authoritative precedent are involved. However, in a large number of civil, commercial, family, consumer, employment and neighbourhood disputes, the parties may require a process which is less hostile, less expensive, more participatory and more capable of preserving continuing relationships. ADR developed as a response to this need. It does not seek to replace courts; rather, it supplements the formal justice system by providing structured alternatives through which parties may resolve disputes outside ordinary trial procedures.¹⁰

ADR is based on certain core concepts: party autonomy, neutrality, confidentiality, procedural flexibility, consensual participation and finality of outcome. The degree to which these concepts operate differs according to the nature of the ADR process. Arbitration is adjudicatory in character because a neutral arbitrator gives a binding decision called an arbitral award. Mediation and conciliation are facilitative processes because the neutral third party assists the disputants in reaching a voluntary settlement without imposing a decision. Negotiation is the most informal method, where the parties themselves attempt settlement without necessarily involving a third party. Lok Adalat, on the other hand, has a distinct statutory and social justice character in India because it aims at compromise-based settlement and mass disposal of disputes through a less formal mechanism.¹¹

The background of ADR in India is partly traditional and partly modern. Indian society has historically used community-based and conciliatory methods for resolving disputes, such as panchayats, family elders and mercantile associations. However, traditional dispute settlement cannot be romanticised uncritically because such mechanisms often reflected social hierarchy, caste influence, gender inequality and lack of procedural safeguards. Modern ADR differs from these informal systems because it is expected to operate within a constitutional framework based on equality, fairness, voluntariness and legality. Therefore, the contemporary idea of ADR is not merely a return to traditional compromise; it is an attempt to create legally recognised and institutionally accountable alternatives to court litigation.

In statutory terms, the modern Indian ADR framework has developed through several legal instruments. The Arbitration and Conciliation Act, 1996 is the central legislation governing arbitration and conciliation. It reflects the influence of the UNCITRAL Model Law and seeks to promote party autonomy, minimal judicial intervention and enforceability of arbitral awards.¹² The Legal Services Authorities Act, 1987 institutionalises Lok Adalats and Permanent Lok Adalats, thereby linking ADR with legal aid and access to justice. The Commercial Courts Act, 2015 also introduced pre-institution mediation in certain commercial disputes, showing legislative preference for settlement before full-scale litigation. Most importantly, the Mediation Act, 2023 has given independent statutory recognition to mediation,

¹⁰ P.C. Rao and William Sheffield, *Alternative Dispute Resolution: What It Is and How It Works* 1-12 (Universal Law Publishing, Delhi, 1997).

¹¹ The Legal Services Authorities Act, 1987, ss. 19-22E.

¹² The Arbitration and Conciliation Act, 1996, ss. 5, 7, 19, 28, 34 and 36.

including online mediation, mediated settlement agreements, mediation service providers and institutional mediation. The official text of the Mediation Act expressly states that it seeks to make online mediation an acceptable and cost-effective process.¹³

The conceptual development of Online Dispute Resolution must be understood against this broader ADR background. ODR is not a wholly new category of dispute resolution; it is the application of information and communication technology to existing ADR methods. In simple terms, when negotiation, mediation, conciliation or arbitration is conducted through digital platforms, video conferencing, electronic records, online case management, digital signatures or automated settlement tools, the process becomes ODR. Thus, ODR may be described as the digital extension of ADR. Its emergence is closely connected with the growth of e-commerce, digital banking, online consumer transactions, platform-based employment, FinTech services and cross-border digital contracts.

The conceptual distinction between court digitisation and ODR must also be clearly maintained. E-filing, virtual court hearings and digital case tracking improve the functioning of courts, but they do not automatically become ODR. ODR is specifically concerned with resolving disputes through online mechanisms, often outside the regular court structure or with limited court involvement. Nevertheless, digital court infrastructure creates an enabling environment for ODR. In India, the e-Courts Mission Mode Project has introduced measures such as video conferencing, virtual courts, e-filing, e-payment, digitisation of records and case monitoring through the National Judicial Data Grid.¹⁴ These developments show that technology is no longer external to justice delivery; it has become an important component of legal process.

ODR may be divided conceptually into three models. The first is technology-assisted ADR, where technology merely supports a traditional process, for example, mediation through video conferencing. The second is technology-facilitated dispute resolution, where the online platform helps in scheduling, document exchange, negotiation and settlement generation. The third is technology-driven dispute resolution, where automated tools, data analytics or artificial intelligence may suggest outcomes, classify disputes or assist settlement. The third model raises the most serious legal and ethical questions because it may affect transparency, accountability, neutrality and human participation. Therefore, while ODR increases efficiency, it also requires careful regulation so that technology remains a tool of justice and does not become a substitute for fairness.

The legal validity of ODR in India depends on several supporting legal principles. Electronic records and electronic signatures have been recognised under the Information Technology Act, 2000. The Bharatiya Sakshya Adhiniyam, 2023 recognises electronic and digital records as part of documentary evidence, thereby strengthening the evidentiary basis of online proceedings. Similarly, digital contracts, electronic communication and online consent are now common features of commercial and consumer transactions. However, legality alone is not sufficient.

¹³ The Mediation Act, 2023, No. 32 of 2023, Preamble, ss. 5, 17-29 and Chapter VII.

¹⁴ Department of Justice, Government of India, *e-Courts Mission Mode Project: Phase-wise Implementation and ICT Initiatives* (2026).

For ODR to be legitimate, parties must have meaningful access to the platform, understand the process, give free consent, receive equal opportunity to present their case and remain protected from coercion, data misuse and procedural manipulation.

The rise of ODR also brings privacy and data protection into the conceptual framework of dispute resolution. Traditional ADR is often valued because of confidentiality. In ODR, confidentiality becomes more complex because dispute-related data may be stored, processed, transmitted and analysed through digital platforms. Such data may include personal information, commercial documents, financial records, settlement communications and sensitive admissions. The Digital Personal Data Protection Act, 2023 provides a statutory framework for processing digital personal data in a manner that balances individual privacy with lawful data processing.¹⁵ Its relevance to ODR is significant because online dispute platforms must ensure consent-based processing, security safeguards, purpose limitation and responsible handling of personal data.

From a justice perspective, ADR and ODR must be assessed through the lens of access, fairness and enforceability. ADR can reduce the burden on courts and encourage settlement, but it may fail if powerful parties dominate weaker parties. ODR can overcome geographical distance and reduce cost, but it may exclude persons who lack digital literacy, stable internet access, language support or confidence in online systems. Therefore, the conceptual framework of this dissertation treats ADR and ODR not merely as efficiency tools, but as justice mechanisms whose legitimacy depends on their ability to protect weaker parties while resolving disputes speedily.

The NITI Aayog's ODR policy plan also reflects this broader understanding by presenting ODR as a means of dispute avoidance, containment and resolution, particularly for high-volume and low-value disputes.¹⁶ This is important in the Indian context because many disputes never reach courts due to cost, delay or lack of awareness. ODR may provide an accessible path for such disputes, especially in consumer claims, small commercial disputes, loan defaults, insurance claims, tenancy matters and digital marketplace grievances. However, the success of this model depends upon institutional trust, standardised procedures, trained neutrals, multilingual platforms, enforceable outcomes and safeguards against technological exclusion.

The conceptual framework of the present study is therefore built upon the relationship between three ideas: access to justice, party autonomy and procedural fairness. Access to justice explains why ADR and ODR are necessary. Party autonomy explains why parties should be allowed to choose flexible methods of dispute resolution. Procedural fairness explains why such flexibility must not become arbitrary or oppressive. The dissertation will critically examine whether Indian law has achieved an appropriate balance among these three values. It will also analyse whether ODR can become a credible extension of ADR in India, or whether it risks creating a new form of digital inequality within the justice system.

¹⁵ The Digital Personal Data Protection Act, 2023, No. 22 of 2023, Preamble and ss. 4-8.

¹⁶ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 12-30 (Government of India, 2021).

The background and conceptual framework of ADR and ODR reveal that both mechanisms arise from the limitations of conventional litigation, but their legitimacy depends upon more than speed and convenience. ADR provides flexible and participatory alternatives to court adjudication, while ODR uses technology to expand these alternatives in the digital age. However, both must operate within constitutional values of fairness, equality, voluntariness and access to justice. The conceptual foundation of this dissertation is therefore not merely that ADR and ODR are efficient, but that they must be legally credible, socially inclusive and procedurally just.

1.3 Problem Statement

The administration of justice is one of the primary functions of a democratic legal system. However, the effectiveness of justice delivery depends not merely upon the existence of legal rights and remedies but upon the availability of mechanisms that can resolve disputes efficiently, fairly and affordably. The Indian judicial system continues to face significant challenges arising from case backlog, procedural complexity, prolonged delays and high litigation costs. These challenges often discourage litigants from pursuing legitimate claims and undermine public confidence in the justice delivery system.¹⁷ While courts remain indispensable for the enforcement of rights and the development of legal precedent, reliance upon conventional litigation as the primary means of dispute resolution has exposed structural limitations that necessitate the strengthening of alternative mechanisms.

Alternate Dispute Resolution (ADR) emerged as an important response to these concerns. Arbitration, mediation, conciliation and Lok Adalats were expected to provide faster, less expensive and more flexible methods of dispute resolution. Legislative reforms, judicial encouragement and institutional initiatives have contributed to the expansion of ADR in India. Nevertheless, the practical performance of ADR has not always matched its theoretical objectives. Arbitration proceedings, particularly in high-value commercial disputes, have frequently been criticised for becoming expensive, procedurally complex and increasingly dependent upon judicial intervention.¹⁸ Similarly, mediation and conciliation, despite their consensual nature, often suffer from limited awareness, inadequate institutional support and uneven implementation across different jurisdictions.

The enactment of the Mediation Act, 2023 represents a significant legislative effort to strengthen mediation as a distinct dispute resolution mechanism. However, the effectiveness of this framework remains dependent upon institutional capacity, professional training, public confidence and judicial cooperation. The existence of statutory recognition alone does not

¹⁷ Law Commission of India, *245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower* (2014).

¹⁸ Avtar Singh, *Law of Arbitration and Conciliation* 1-25 (Eastern Book Company, 12th edn., 2023).

guarantee successful dispute resolution outcomes. Questions continue to arise regarding enforceability, confidentiality, quality control and the protection of weaker parties during settlement negotiations.¹⁹ These concerns highlight the need for a critical evaluation of whether the present ADR framework adequately fulfils its objective of enhancing access to justice.

The emergence of the digital economy has introduced an additional dimension to the dispute resolution landscape. The rapid growth of e-commerce, online banking, digital payments, platform-based services, fintech transactions and cross-border electronic commerce has generated a large volume of disputes that require efficient and technologically compatible mechanisms for resolution. Traditional ADR processes, while effective in many situations, were not originally designed to address disputes arising within highly digitalised environments. Consequently, Online Dispute Resolution (ODR) has developed as an innovative mechanism that integrates technology with established ADR processes.

ODR offers several potential advantages, including geographical accessibility, reduction of transaction costs, procedural convenience and faster dispute resolution. These benefits became particularly evident during periods when physical access to institutions was restricted and digital communication became essential for legal and commercial activity.²⁰ At the same time, ODR raises complex legal, technological and ethical concerns. The increasing reliance on digital platforms creates risks relating to privacy, cybersecurity, data protection, algorithmic transparency and procedural fairness. The possibility that technology may influence decision-making processes without adequate accountability has generated concerns regarding due process and the protection of legal rights.

A significant problem associated with ODR in India is the existence of the digital divide. Although internet penetration has increased substantially, access to reliable digital infrastructure remains uneven across different socio-economic and geographical groups. Rural populations, economically disadvantaged communities, elderly persons and individuals lacking digital literacy may encounter difficulties in effectively participating in online dispute resolution processes.²¹ Consequently, while ODR has the potential to improve access to justice, it may simultaneously create new forms of exclusion if appropriate safeguards are not established.

Another important issue concerns the legal and regulatory framework governing ODR. Although various statutes, including the Information Technology Act, 2000, the Bharatiya Sakshya Adhiniyam, 2023 and the Mediation Act, 2023 provide indirect support for digital dispute resolution processes, India does not yet possess a comprehensive standalone legislative framework specifically regulating ODR. This creates uncertainty regarding standards of platform governance, data security obligations, procedural safeguards, accreditation of ODR

¹⁹ The Mediation Act, 2023, No. 32 of 2023; see also Sriram Panchu, *Mediation Practice and Law* 35-58 (LexisNexis, 2nd edn., 2022).

²⁰ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 12-30 (Government of India, 2021).

²¹ Ministry of Electronics and Information Technology, Government of India, *India Digital Ecosystem and Access Reports* (2024).

service providers and cross-border enforceability of outcomes.²² The absence of a dedicated regulatory structure may hinder the long-term credibility and acceptance of ODR mechanisms.

Judicial attitudes towards ADR and ODR also present a complex challenge. Indian courts have consistently promoted ADR as an instrument for reducing pendency and facilitating amicable settlement. However, excessive judicial intervention in arbitral proceedings has often been criticised for undermining the autonomy and efficiency that ADR seeks to achieve.²³ At the same time, insufficient judicial oversight may raise concerns regarding fairness, public policy and protection against abuse. The appropriate balance between judicial supervision and party autonomy therefore remains an unresolved issue within both ADR and ODR frameworks.

The central problem addressed by this dissertation is the gap between the theoretical promise of ADR and ODR and their practical implementation within the Indian legal system. While both mechanisms are widely promoted as solutions to the challenges of conventional litigation, questions remain regarding their effectiveness, accessibility, enforceability, fairness and institutional readiness. The increasing digitisation of dispute resolution further complicates these issues by introducing concerns relating to technology governance, privacy, digital exclusion and procedural legitimacy. Accordingly, a comprehensive and critical examination of ADR and ODR is necessary to determine whether they can genuinely strengthen access to justice in India while preserving the fundamental principles of fairness, transparency and rule of law.

The principal problem underlying this study is that despite extensive legislative support and growing institutional acceptance, ADR and ODR continue to face significant practical, legal and technological challenges. While they offer promising alternatives to traditional litigation, concerns relating to accessibility, enforceability, procedural fairness, judicial intervention and digital inequality remain unresolved. The effectiveness of these mechanisms therefore depends not only upon their availability but also upon the extent to which they can deliver justice that is efficient, inclusive and legally credible.

1.4 Research Questions

The present study seeks to answer the following research questions:

1. Whether the existing legal framework for ADR in India effectively ensures speedy, fair and accessible dispute resolution?

²² Susan Nauss Exon, "The Next Generation of Online Dispute Resolution: The Significance of Holography to Enhance and Transform Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

²³ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552; *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

2. Whether Online Dispute Resolution (ODR) can function as a legally valid and efficient extension of traditional ADR mechanisms?
3. What are the major legal, technological and ethical challenges affecting the implementation of ODR in India?
4. How have Indian courts influenced the development and effectiveness of ADR and ODR mechanisms?
5. What reforms and international best practices can be adopted to strengthen the ADR and ODR framework in India?

These research questions define the scope and direction of the study. They focus on the effectiveness of the existing ADR framework, the growing significance of ODR, the challenges faced by both mechanisms, the role of the judiciary and the need for future reforms. Through these questions, the dissertation aims to critically evaluate the contribution of ADR and ODR to the Indian justice delivery system.

1.5 Objectives of Study

The present study is undertaken with the following objectives:

1. To examine the concept, nature and significance of Alternate Dispute Resolution (ADR) in the Indian legal system.
2. To analyse the legal framework governing ADR and Online Dispute Resolution (ODR) in India.
3. To evaluate the role of ODR as a technology-driven extension of traditional dispute resolution mechanisms.
4. To identify the legal, technological and practical challenges affecting the effective implementation of ADR and ODR.
5. To study judicial trends relating to ADR and ODR and assess their impact on access to justice.
6. To compare the Indian framework with selected international practices and identify areas requiring reform.
7. To suggest measures for strengthening the effectiveness, accessibility and credibility of ADR and ODR in India.

The objectives of this study are designed to provide a comprehensive understanding of both ADR and ODR while maintaining a critical focus on their practical operation within the Indian legal system. The study aims not only to analyse the existing legal framework but also to explore reforms that can enhance the role of alternative dispute resolution in achieving efficient and accessible justice.

1.6 Hypothesis

The present study is based on the following hypothesis:

Primary Hypothesis

Alternate Dispute Resolution (ADR) and Online Dispute Resolution (ODR) have the potential to significantly improve access to justice by providing faster, cost-effective and flexible alternatives to conventional litigation; however, their effectiveness in India is constrained by legal, institutional, technological and awareness-related challenges.

Secondary Hypothesis

A well-regulated ODR framework, supported by robust legal safeguards, technological infrastructure and institutional capacity, can strengthen the Indian dispute resolution system and reduce the burden on courts without compromising principles of fairness, transparency and due process.

The hypothesis proceeds on the assumption that ADR and ODR are valuable mechanisms for modern dispute resolution but require continuous legal and institutional development to realise their full potential. The subsequent chapters will test this hypothesis through an analysis of legislation, judicial decisions, institutional practices and comparative experiences.

1.7 Scope and Limitations of the Study

The scope of the present study is confined to the examination of Alternate Dispute Resolution (ADR) and Online Dispute Resolution (ODR) within the Indian legal framework. The study analyses the principal ADR mechanisms, including arbitration, mediation, conciliation and Lok Adalats, with particular emphasis on their role in promoting access to justice and reducing dependence on conventional litigation. It further explores the emergence of ODR as a technology-enabled extension of ADR and evaluates its growing significance in resolving commercial, consumer and digital-era disputes.

The study examines relevant statutory provisions, judicial pronouncements, policy initiatives and institutional developments relating to ADR and ODR. It also considers comparative perspectives from selected jurisdictions such as the United Kingdom, the United States, Singapore and international frameworks developed by UNCITRAL to identify best practices and reform-oriented approaches.

However, the study is subject to certain limitations. It is primarily doctrinal in nature and relies on statutes, case law, government reports, policy documents, books and scholarly writings. No empirical field survey or stakeholder interview has been conducted. The research does not attempt a detailed technical analysis of dispute resolution software, artificial intelligence systems or cybersecurity architecture used by ODR platforms. Similarly, while cross-border dispute resolution is discussed where relevant, the primary focus remains on the Indian legal and institutional framework.

The study seeks to provide a comprehensive legal analysis of ADR and ODR in India while remaining focused on their role in enhancing access to justice and improving dispute resolution mechanisms. Although certain technical and empirical aspects fall beyond its scope, the research aims to offer a balanced and critical assessment of the existing framework and its future prospects.

1.8 Research Methodology

The present study adopts a **doctrinal research methodology**. The research is primarily based on the analysis of statutory provisions, judicial decisions, scholarly writings, government reports, policy documents and international instruments relating to Alternate Dispute Resolution (ADR) and Online Dispute Resolution (ODR).

The study makes extensive use of **primary sources**, including the Constitution of India, the Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987, the Mediation Act, 2023, the Digital Personal Data Protection Act, 2023, relevant provisions of the Bharatiya Sakshya Adhiniyam, 2023 and important judgments of the Supreme Court and various High Courts. International instruments and model laws, particularly those developed by UNCITRAL, have also been examined to understand global developments in dispute resolution.

The research further relies upon **secondary sources** such as books authored by recognised scholars, peer-reviewed journal articles, Law Commission Reports, reports of NITI Aayog, publications of governmental and institutional bodies and other academic commentaries relevant to ADR and ODR.

A comparative approach has been adopted wherever necessary to evaluate the Indian framework against selected international jurisdictions, including the United Kingdom, the United States, Singapore and the European Union. Such comparison assists in identifying best practices and potential reforms that may strengthen the Indian dispute resolution system.

The methodology is analytical and critical in nature. Rather than merely describing legal provisions, the study evaluates their effectiveness, judicial interpretation, practical implementation and contemporary relevance. Particular attention has been given to the opportunities and challenges created by technological innovation in dispute resolution and its impact on access to justice.

The research methodology adopted for this dissertation facilitates a comprehensive examination of ADR and ODR from legal, institutional and comparative perspectives. By relying on authoritative legal sources and critical analysis, the study seeks to assess the effectiveness of the existing framework and propose reforms that can enhance the role of alternative dispute resolution in the Indian justice system.

Conclusion

This chapter has established the foundational framework of the study by introducing the concepts of Alternate Dispute Resolution and Online Dispute Resolution, identifying the research

problem, formulating the research questions, outlining the objectives and hypothesis, defining the scope of the study and explaining the methodology adopted. The discussion demonstrates that while ADR has emerged as an important mechanism for addressing the limitations of traditional litigation, ODR represents a significant technological evolution capable of transforming dispute resolution in the digital age. At the same time, concerns relating to accessibility, enforceability, procedural fairness, institutional capacity and technological inclusion continue to present important challenges. These issues necessitate a detailed examination of the legal and institutional framework governing ADR and ODR, which forms the focus of the subsequent chapters.



CHAPTER 2

LEGAL AND INSTITUTIONAL FRAMEWORK OF ADR IN INDIA

2.1 Constitutional Basis of ADR and Access to Justice

The constitutional foundation of Alternate Dispute Resolution (ADR) in India is rooted in the broader objective of ensuring access to justice and promoting the rule of law. Although the Constitution of India does not expressly refer to ADR mechanisms such as arbitration, mediation or conciliation, the principles underlying these processes can be traced to constitutional guarantees relating to equality, fairness and effective justice delivery. The growth of ADR in India has therefore not merely been a matter of legislative policy but also a constitutional response to the challenges posed by delays, costs and procedural complexities associated with conventional litigation.

Access to justice has been recognised by the Supreme Court as an essential component of the constitutional framework. Articles 14 and 21 collectively ensure that every individual is entitled to fair, reasonable and effective legal remedies.²⁴ The concept of justice under the Constitution extends beyond the formal availability of courts and encompasses practical accessibility to legal remedies. A justice system that is excessively expensive, time-consuming or inaccessible to ordinary citizens may fail to fulfil constitutional expectations. In this context, ADR serves as an important mechanism for making justice more accessible, efficient and responsive to the needs of litigants.

Article 39A of the Constitution occupies a particularly significant position in the development of ADR. Introduced through the Forty-Second Constitutional Amendment, it directs the State to ensure that the operation of the legal system promotes justice on the basis of equal opportunity and that justice is not denied because of economic or other disabilities.²⁵ The provision reflects the constitutional commitment to reducing barriers that prevent individuals from effectively asserting their rights. ADR mechanisms such as Lok Adalats, mediation and conciliation contribute directly to this objective by providing comparatively inexpensive and less formal avenues for dispute resolution.

The Supreme Court has consistently interpreted access to justice as a fundamental constitutional value. In *Hussainara Khatoon v. State of Bihar*, the Court emphasised that speedy justice is an integral part of the right to life and personal liberty.²⁶ Although the case arose in the context of criminal justice, the principle established therein has broader relevance for the entire justice delivery system. Delayed justice diminishes the practical value of legal rights, making the search for efficient dispute resolution mechanisms a constitutional necessity rather than a matter of administrative convenience.

²⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²⁵ Constitution of India, Art. 39A.

²⁶ *Hussainara Khatoon (IV) v. State of Bihar*, (1980) 1 SCC 98.

The constitutional importance of access to justice was further elaborated in *Anita Kushwaha v. Pushap Sudan*, where the Supreme Court recognised access to justice as a fundamental right flowing from Articles 14 and 21 of the Constitution.²⁷ The Court observed that access to justice includes the availability of adjudicatory mechanisms, effective procedures, affordability and timely resolution of disputes. This understanding provides strong constitutional support for ADR because alternative mechanisms often seek to achieve precisely these objectives.

The establishment and functioning of Lok Adalats represent one of the clearest examples of constitutional principles being translated into institutional practice. The Legal Services Authorities Act, 1987 was enacted to implement the mandate of Article 39A and to ensure that legal services and dispute resolution mechanisms remain accessible to all sections of society.²⁸ Lok Adalats have played an important role in resolving disputes relating to motor accident claims, matrimonial matters, labour disputes, public utility services and other civil disputes through consensual settlement. Their contribution demonstrates how constitutional ideals of access to justice can be operationalised through alternative dispute resolution mechanisms.

The constitutional basis of ADR is also connected with the principle of participatory justice. Traditional litigation often places control of the dispute largely in the hands of judges and legal representatives. In contrast, mediation and conciliation allow parties to participate actively in the resolution process and to formulate mutually acceptable outcomes. Such participation enhances the legitimacy of dispute resolution and aligns with democratic values that encourage individual autonomy and consensual decision-making.²⁹ The increasing legislative emphasis on mediation reflects recognition of the fact that justice is not always best achieved through adversarial adjudication.

At the same time, constitutional values impose important limitations on ADR processes. Party autonomy, although central to ADR, cannot override principles of fairness, equality and public policy. The Supreme Court has repeatedly held that arbitration and other alternative mechanisms must operate within the framework of the rule of law.³⁰ Therefore, while ADR promotes flexibility and efficiency, it must also ensure procedural fairness, impartiality and protection of weaker parties. The constitutional legitimacy of ADR depends not only on its ability to reduce judicial workload but also on its capacity to deliver outcomes consistent with fundamental legal values.

The emergence of Online Dispute Resolution (ODR) further expands the constitutional discussion concerning access to justice. Digital platforms have the potential to overcome geographical barriers, reduce costs and facilitate dispute resolution for individuals who may otherwise be unable to participate effectively in legal proceedings. ODR therefore supports the constitutional objective of widening access to justice. However, technological innovation also raises concerns regarding digital exclusion, privacy, data protection and procedural fairness. If significant sections of society lack meaningful access to technology, ODR may inadvertently

²⁷ *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509.

²⁸ The Legal Services Authorities Act, 1987, Preamble and ss. 19–22E.

²⁹ Sriram Panchu, *Mediation Practice and Law* 21-39 (LexisNexis, 2nd edn., 2022).

³⁰ *Centrotrade Minerals & Metal Inc. v. Hindustan Copper Ltd.*, (2017) 2 SCC 228.

create new inequalities rather than eliminate existing barriers. Consequently, constitutional principles require that technological advancement in dispute resolution remain inclusive and rights-oriented.

The constitutional vision of justice in India thus extends beyond courtroom adjudication and embraces alternative mechanisms capable of delivering fair and effective outcomes. ADR and ODR must be understood not merely as administrative tools for reducing pendency but as instruments that contribute to the fulfilment of constitutional guarantees. Their legitimacy ultimately depends upon their ability to advance access to justice while preserving fairness, equality and the rule of law.

The constitutional framework of India provides a strong normative foundation for the development of ADR and ODR. Articles 14, 21 and 39A collectively support the creation of accessible, affordable and efficient dispute resolution mechanisms. Judicial interpretation has reinforced the view that access to justice is a fundamental constitutional value, thereby providing legitimacy to alternative forms of dispute resolution. At the same time, constitutional principles require that ADR and ODR operate in a manner that protects fairness, equality and procedural integrity. These constitutional considerations form the basis upon which the statutory and institutional framework of ADR in India has evolved.

2.2 Arbitration, Conciliation and Mediation under Indian Law

Arbitration, conciliation and mediation constitute the principal pillars of the modern Alternative Dispute Resolution framework in India. Although each mechanism seeks to resolve disputes outside the conventional court system, they differ significantly in procedure, degree of party participation and the nature of outcomes produced. The legislative recognition of these mechanisms reflects a broader policy objective of promoting efficient dispute resolution while preserving fairness, party autonomy and access to justice.

Arbitration is the most formal and adjudicatory form of ADR. It is a process through which parties agree to submit their disputes to one or more neutral arbitrators whose decision, known as an arbitral award, is binding upon them. The Arbitration and Conciliation Act, 1996 governs arbitration in India and is substantially based on the UNCITRAL Model Law on International Commercial Arbitration.³¹ The Act was enacted with the objective of modernising Indian arbitration law, reducing excessive judicial intervention and facilitating both domestic and international commercial arbitration.

A defining feature of arbitration is the principle of party autonomy. Parties are generally free to determine the number of arbitrators, the procedure to be followed, the seat of arbitration, the governing law and other procedural aspects of the proceedings.³² This flexibility distinguishes arbitration from traditional litigation, where procedural rules are largely predetermined by statute. Arbitration is particularly preferred in commercial disputes because it allows parties to

³¹ The Arbitration and Conciliation Act, 1996, Preamble.

³² The Arbitration and Conciliation Act, 1996, ss. 10, 19, 20 and 28.

choose decision-makers possessing specialised expertise and ensures confidentiality of proceedings.

Despite these advantages, arbitration in India has faced several challenges. One of the principal criticisms has been the increasing judicialisation of arbitral proceedings. Although the 1996 Act was intended to minimise court interference, parties frequently approach courts at various stages of the arbitral process, including appointment of arbitrators, interim relief, challenges to awards and enforcement proceedings.³³ Excessive judicial intervention has often undermined the objective of speedy dispute resolution and increased the overall cost of arbitration.

The Supreme Court has played a significant role in shaping arbitration jurisprudence. In *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* (BALCO), the Court reaffirmed the territorial principle and clarified the applicability of Indian arbitration law to international commercial arbitration.³⁴ The judgment strengthened India's position as an arbitration-friendly jurisdiction and reduced uncertainties that had previously complicated international arbitration proceedings. Similarly, in *Vidya Drolia v. Durga Trading Corporation*, the Court provided important guidance regarding the arbitrability of disputes and the extent of judicial scrutiny at the referral stage.³⁵ These decisions demonstrate the judiciary's continuing effort to balance party autonomy with judicial oversight.

Conciliation represents a less formal and more consensual dispute resolution mechanism. Unlike arbitration, the conciliator does not adjudicate the dispute or impose a binding decision. Instead, the conciliator assists the parties in identifying issues, facilitating communication and exploring possible settlement options. The provisions relating to conciliation are contained in Part III of the Arbitration and Conciliation Act, 1996.³⁶ The process is entirely voluntary and depends upon the willingness of parties to cooperate in reaching a mutually acceptable settlement.

One of the distinguishing features of conciliation is the legal status of the settlement agreement. Under the Arbitration and Conciliation Act, a settlement agreement reached through conciliation has the same status and effect as an arbitral award on agreed terms.³⁷ This gives conciliatory settlements a degree of enforceability that enhances confidence in the process. Conciliation is particularly useful in disputes involving continuing relationships, where preservation of goodwill and cooperation may be more important than obtaining a formal adjudicatory decision.

Although conciliation possesses several advantages, its practical utilisation in India has remained relatively limited when compared to arbitration and mediation. One reason is the growing preference for mediation, which is often perceived as a more flexible and

³³ O.P. Malhotra and Indu Malhotra, *The Law and Practice of Arbitration and Conciliation* 67-89 (LexisNexis, 4th edn., 2022).

³⁴ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552.

³⁵ *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

³⁶ The Arbitration and Conciliation Act, 1996, Part III (ss. 61–81).

³⁷ The Arbitration and Conciliation Act, 1996, s. 74.

institutionally developed process. Another factor is the lack of widespread awareness regarding the procedural benefits and enforceability of conciliation settlements.

Mediation has emerged as one of the most significant developments in the Indian ADR landscape. Unlike arbitration, mediation is entirely facilitative in nature. The mediator does not decide the dispute but assists the parties in reaching a voluntary and mutually acceptable settlement. The emphasis is placed on communication, negotiation and consensus-building rather than adversarial determination of rights and liabilities³⁸

The enactment of the Mediation Act, 2023 marks a major milestone in the development of mediation in India. Prior to this legislation, mediation largely operated through court-annexed mediation centres, judicial initiatives and scattered statutory provisions. The Mediation Act provides a comprehensive legal framework governing domestic mediation, international mediation, online mediation, community mediation and institutional mediation. The legislation seeks to promote mediation as a preferred method of dispute resolution and strengthen its credibility through statutory recognition.

A significant contribution of the Mediation Act, 2023 is its recognition of mediated settlement agreements and the establishment of a framework for their enforcement. The Act also encourages institutional mediation and acknowledges the growing role of online mediation in contemporary dispute resolution. This legislative recognition is particularly relevant in an era where digital communication and remote dispute resolution are becoming increasingly common.

The Supreme Court has consistently encouraged mediation as a means of reducing adversarial litigation and fostering amicable settlement. In *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, the Court emphasised the importance of ADR mechanisms and provided guidance regarding categories of disputes suitable for mediation and other forms of alternative dispute resolution.³⁹ The judgment remains one of the most influential decisions concerning the integration of ADR into the Indian justice system.

Despite its advantages, mediation is not free from criticism. Concerns are often raised regarding power imbalances between parties, the absence of procedural safeguards comparable to formal adjudication and the possibility that weaker parties may feel pressured to accept settlements. These concerns become particularly significant in disputes involving unequal bargaining power, such as consumer disputes, employment disputes or certain family disputes. Consequently, the success of mediation depends heavily upon the skill, neutrality and professionalism of mediators as well as the existence of institutional safeguards.

The emergence of online mediation further expands the scope of mediation by enabling parties to participate through digital platforms. Online mediation reduces geographical barriers, lowers costs and increases convenience. However, it also introduces concerns relating to confidentiality, cybersecurity, digital literacy and technological accessibility. The effectiveness

³⁸ Sriram Panchu, *Mediation Practice and Law* 41-76 (LexisNexis, 2nd edn., 2022).

³⁹ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

of online mediation therefore depends upon the creation of secure digital infrastructure and appropriate legal safeguards.

Arbitration, conciliation and mediation collectively form the backbone of India's ADR framework. While arbitration provides a binding adjudicatory mechanism suitable for complex commercial disputes, conciliation and mediation emphasise consensual settlement and preservation of relationships. Legislative reforms, particularly the Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023, have significantly strengthened these mechanisms. Nevertheless, challenges relating to cost, judicial intervention, institutional capacity, awareness and procedural fairness continue to affect their practical effectiveness. Addressing these concerns remains essential for ensuring that ADR fulfils its promise of providing accessible, efficient and credible alternatives to conventional litigation.

2.3 Lok Adalat, Permanent Lok Adalat and Court-Annexed ADR

The evolution of Alternative Dispute Resolution in India cannot be fully understood without examining the role of Lok Adalats, Permanent Lok Adalats and court-annexed ADR mechanisms. While arbitration, mediation and conciliation are often associated with private dispute resolution, Lok Adalats represent a unique Indian model that combines the objectives of social justice, legal aid and consensual dispute settlement. These institutions have emerged as important instruments for reducing litigation, improving access to justice and providing speedy resolution of disputes, particularly for individuals who may lack the financial resources or institutional capacity to pursue lengthy court proceedings.⁴⁰

The concept of Lok Adalat is closely linked to the constitutional vision embodied in Article 39A of the Constitution of India, which directs the State to ensure equal access to justice for all citizens. Recognising that formal litigation is often expensive, time-consuming and procedurally complex, the legislature sought to create an alternative mechanism capable of resolving disputes through compromise and mutual understanding. This objective led to the enactment of the Legal Services Authorities Act, 1987, which institutionalised Lok Adalats as part of India's legal aid and justice delivery framework.⁴¹

Lok Adalats function on the principle that voluntary settlement is often more beneficial than adversarial adjudication. Their proceedings are informal in nature and are designed to facilitate dialogue between disputing parties. Unlike conventional courts, Lok Adalats do not focus on determining rights and liabilities through detailed legal analysis. Instead, they seek to encourage compromise and arrive at solutions that are acceptable to all parties involved. This conciliatory approach is particularly effective in disputes involving family relationships, motor accident compensation claims, labour disputes, public utility matters and other civil disputes where preserving relationships and reducing hostility are important considerations.⁴²

⁴⁰ Constitution of India, Art. 39A.

⁴¹ The Legal Services Authorities Act, 1987.

⁴² N.R. Madhava Menon, *Legal Aid and Justice for All* 112-126 (Deep & Deep Publications, New Delhi, 1998).

One of the most significant strengths of Lok Adalats is their ability to provide inexpensive and expeditious justice. The absence of complex procedural requirements, combined with the emphasis on settlement, allows disputes to be resolved within a comparatively short period. This feature is especially valuable in a judicial system burdened by substantial case backlogs. National Lok Adalats conducted across the country have resolved millions of cases, demonstrating their practical contribution to reducing pendency and promoting legal accessibility.⁴³

The legal effect of a settlement reached before a Lok Adalat further enhances its utility. An award passed by a Lok Adalat is treated as final and binding upon the parties and is enforceable in the same manner as a decree of a civil court.⁴⁴ This ensures that settlements are not merely moral understandings but legally enforceable outcomes capable of bringing finality to disputes. The enforceability of Lok Adalat awards distinguishes them from purely informal settlement mechanisms and contributes significantly to public confidence in the institution.

The Supreme Court has repeatedly acknowledged the importance of Lok Adalats within the justice delivery system. In *State of Punjab v. Jalour Singh*, the Court clarified that a Lok Adalat functions primarily as a conciliatory body and derives its authority from the consent of the parties.⁴⁵ The Court emphasised that where no compromise is reached, the Lok Adalat cannot adjudicate the dispute on merits. This principle preserves the voluntary character of the process and prevents Lok Adalats from assuming the role of conventional courts.

Despite their considerable success, Lok Adalats are not immune from criticism. Some scholars have argued that an excessive emphasis on disposal statistics may occasionally overshadow the quality of settlements achieved. Concerns have also been expressed regarding situations where economically or socially weaker parties may agree to settlements primarily to avoid the burden of litigation rather than because the terms are genuinely satisfactory.⁴⁶ Such concerns highlight the need to ensure that compromise remains informed, voluntary and free from coercion.

In order to strengthen the effectiveness of settlement-based dispute resolution, the Legal Services Authorities Act introduced the institution of Permanent Lok Adalats. Unlike ordinary Lok Adalats, which are generally convened periodically for settlement purposes, Permanent Lok Adalats function as standing institutions dealing primarily with disputes relating to public utility services.⁴⁷ Their establishment reflects the recognition that disputes involving essential services require prompt resolution because delays may directly affect public welfare and economic activity.

A distinctive feature of Permanent Lok Adalats is their hybrid character. They initially attempt to facilitate settlement through conciliation; however, if settlement efforts fail, they possess limited authority to decide the dispute on merits. This combination of conciliatory and adjudicatory functions distinguishes them from traditional Lok Adalats and enhances their

⁴³ National Legal Services Authority (NALSA), *Annual Report* (latest available edition).

⁴⁴ The Legal Services Authorities Act, 1987.

⁴⁵ *State of Punjab v. Jalour Singh*, (2008) 2 SCC 660.

⁴⁶ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

⁴⁷ The Legal Services Authorities Act, 1987.

effectiveness in resolving disputes where compromise may not be possible.⁴⁸ The Supreme Court in *Bar Council of India v. Union of India* upheld the constitutional validity of this framework and recognised its role in advancing accessible and efficient dispute resolution.⁴⁹

Alongside Lok Adalats and Permanent Lok Adalats, court-annexed ADR has emerged as a crucial component of the Indian justice system. Judicial recognition of ADR reflects a broader understanding that courts need not resolve every dispute through formal adjudication. Instead, where appropriate, disputes may be referred to settlement-oriented mechanisms capable of producing mutually acceptable outcomes. The incorporation of ADR into the civil justice process represented a significant shift in Indian procedural law and demonstrated a growing commitment to consensual dispute resolution.⁵⁰

The Supreme Court played a pivotal role in promoting court-annexed ADR through its decisions in *Salem Advocate Bar Association (II) v. Union of India* and *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*⁵¹ These judgments emphasised that ADR should not be viewed merely as an alternative to litigation but as an integral component of effective justice administration. The Court provided guidance regarding categories of disputes suitable for mediation and other ADR processes and encouraged the establishment of institutional mechanisms capable of facilitating settlement.

The growth of mediation centres under the supervision of High Courts and District Courts further strengthened court-annexed ADR in India. These centres provide trained mediators, structured procedures and institutional support that enhance the credibility of consensual dispute resolution. Their success has demonstrated that many disputes, particularly those involving commercial transactions, family relationships and community conflicts, can be resolved more effectively through dialogue than through adversarial proceedings.

Recent technological developments have also influenced the functioning of Lok Adalats and court-annexed ADR. Virtual Lok Adalats and online mediation sessions have expanded access to dispute resolution by enabling participation across geographical boundaries. These developments are particularly relevant in a country as large and diverse as India, where physical access to legal institutions may be difficult for many citizens. However, technological innovation must be accompanied by safeguards relating to digital literacy, accessibility, privacy and procedural fairness if the benefits of online dispute resolution are to be fully realised.

Lok Adalats, Permanent Lok Adalats and court-annexed ADR collectively represent some of the most significant innovations in the Indian justice delivery system. Their success demonstrates that dispute resolution can be efficient, accessible and legally effective without necessarily relying upon prolonged adversarial litigation. At the same time, concerns regarding voluntariness, quality of settlements and institutional capacity indicate that continuous reform remains necessary. Strengthening these mechanisms will be essential for ensuring that they

⁴⁸ M.P. Jain, *The Code of Civil Procedure* 1489-1498 (LexisNexis, 7th edn., 2023).

⁴⁹ *Bar Council of India v. Union of India*, (2012) 8 SCC 243.

⁵⁰ M.P. Jain, *The Code of Civil Procedure* 1489-1498 (LexisNexis, 7th edn., 2023).

⁵¹ *Salem Advocate Bar Association (II) v. Union of India*, (2005) 6 SCC 344; *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

continue to advance the constitutional objective of providing affordable, accessible and meaningful justice to all sections of society.

2.4 Judicial Approach towards ADR in India

The growth and institutional acceptance of Alternative Dispute Resolution in India has been significantly influenced by judicial intervention. While legislative measures have provided the statutory framework for arbitration, mediation, conciliation and Lok Adalats, it is the judiciary that has played a decisive role in interpreting these laws, encouraging settlement-oriented dispute resolution and shaping the practical functioning of ADR mechanisms. Indian courts have increasingly recognised that the effective administration of justice requires not only adjudication through courts but also the promotion of efficient and consensual methods of dispute resolution.⁵²

The judicial approach towards ADR has generally been guided by two objectives. The first is to reduce the burden on an already overburdened judicial system by encouraging parties to explore alternative mechanisms wherever appropriate. The second is to ensure that such mechanisms operate in a manner consistent with fairness, legality and public policy. Consequently, courts have sought to strike a balance between promoting party autonomy and preserving judicial oversight where necessary to prevent injustice or abuse.

One of the most significant developments in this regard was the judicial interpretation of court-referred ADR. In *Salem Advocate Bar Association (II) v. Union of India*, the Supreme Court upheld the validity and importance of ADR mechanisms within the civil justice system and emphasised that alternative dispute resolution should be viewed as an integral component of effective justice delivery rather than merely an optional substitute for litigation.⁵³ The Court recognised that settlement-oriented processes can reduce delays, lower litigation costs and provide more satisfactory outcomes in suitable categories of disputes.

The judicial commitment to ADR was further strengthened in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, where the Supreme Court provided detailed guidance regarding the operation of court-annexed ADR.⁵⁴ The Court identified categories of disputes that are particularly suitable for mediation and settlement-oriented processes, including commercial disputes, family disputes, partnership matters and consumer claims. At the same time, it recognised that certain disputes involving serious allegations of fraud, criminal conduct or issues affecting public rights may not be appropriate for consensual settlement. The decision remains one of the most important judicial pronouncements concerning the integration of ADR into the Indian justice system.

The judiciary has also played a crucial role in the development of arbitration law. Prior to the reforms introduced through judicial interpretation and legislative amendments, Indian

⁵² Justice R.V. Raveendran, "Mediation and Conciliation: The Indian Experience", (2005) 3 SCC (Jour) 1.

⁵³ *Salem Advocate Bar Association (II) v. Union of India*, (2005) 6 SCC 344.

⁵⁴ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

arbitration was often criticised for excessive court intervention and procedural delays. Courts were frequently approached at various stages of the arbitral process, which diluted the advantages of speed and efficiency associated with arbitration. Over time, however, the Supreme Court has attempted to establish a more arbitration-friendly approach.

A landmark development occurred in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* (BALCO), where the Supreme Court reaffirmed the principle of territoriality and clarified the relationship between domestic and international commercial arbitration.⁵⁵ The judgment is widely regarded as a turning point in Indian arbitration jurisprudence because it promoted certainty, reduced unnecessary judicial interference and enhanced India's credibility as an arbitration-friendly jurisdiction. By aligning Indian arbitration law more closely with international standards, the Court sought to encourage commercial confidence and foreign investment.

Subsequent decisions have continued this trend. In *Vidya Drolia v. Durga Trading Corporation*, the Supreme Court elaborated upon the doctrine of arbitrability and clarified the limited scope of judicial examination at the referral stage.⁵⁶ The Court emphasised that judicial authorities should ordinarily respect arbitration agreements and avoid extensive scrutiny of disputes that parties have agreed to submit to arbitration. This approach reflects a broader judicial recognition of party autonomy as a fundamental principle of arbitration.

At the same time, Indian courts have consistently maintained that party autonomy cannot operate without limits. Arbitration agreements and arbitral awards remain subject to review on grounds of public policy, procedural fairness and legality. The judiciary has therefore attempted to strike a balance between respecting arbitral independence and preventing outcomes that may undermine the integrity of the legal system. Critics have occasionally argued that judicial review of arbitral awards remains broader in India than in some leading arbitration jurisdictions. However, supporters contend that such oversight is necessary to preserve fairness and public confidence in the arbitral process.

The judicial approach towards mediation has been particularly supportive. Courts have repeatedly emphasised that mediation offers advantages that cannot always be achieved through adjudication. Unlike litigation, mediation allows parties to preserve relationships, maintain confidentiality and arrive at solutions tailored to their specific needs. These characteristics are especially valuable in family disputes, commercial relationships, neighbourhood conflicts and employment matters where continuing interaction between the parties may be important.⁵⁷

The enactment of the Mediation Act, 2023 has further strengthened judicial support for mediation by providing a comprehensive statutory framework for the process. Courts are increasingly encouraging parties to explore mediation before pursuing prolonged litigation.

⁵⁵ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552.

⁵⁶ *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

⁵⁷ Sriram Panchu, *Mediation Practice and Law* 87-104 (LexisNexis, 2nd edn., 2022).

This reflects a broader shift in judicial philosophy from purely adjudicatory dispute resolution towards consensual and interest-based settlement mechanisms.

The judiciary has also recognised the growing significance of technology in dispute resolution. Although Indian jurisprudence relating specifically to Online Dispute Resolution remains at a developing stage, courts have generally adopted a favourable attitude towards technological innovation in legal processes. The increasing use of virtual hearings, electronic records, digital signatures and online communication has demonstrated that technology can improve efficiency and accessibility without necessarily compromising procedural fairness.⁵⁸ These developments create a supportive environment for the future growth of ODR in India.

Nevertheless, the judicial approach to ADR has not been free from criticism. Some scholars argue that courts occasionally promote settlement primarily as a tool for reducing pendency rather than as a means of achieving substantive justice. There is also concern that excessive judicial encouragement may pressure parties into settlement even where adjudication would be more appropriate. Furthermore, in arbitration matters, judicial intervention has sometimes been criticised for undermining the autonomy and efficiency that arbitration seeks to provide. These concerns highlight the need for a balanced judicial approach that promotes ADR without compromising voluntariness or procedural fairness.

The overall judicial trend in India demonstrates a clear movement towards greater acceptance and institutionalisation of ADR. Courts have consistently recognised that effective dispute resolution requires flexibility, efficiency and accessibility in addition to formal adjudication. Through a series of landmark decisions, the judiciary has facilitated the growth of arbitration, mediation, conciliation and Lok Adalats while simultaneously ensuring that these mechanisms remain consistent with fundamental legal principles. The continued success of ADR in India will depend significantly upon the judiciary's ability to maintain this balance between encouragement and oversight, autonomy and accountability, efficiency and justice.

2.5 Practical Challenges in the Indian ADR System

Despite significant legislative reforms, judicial encouragement and growing institutional acceptance, the practical implementation of Alternative Dispute Resolution in India continues to face several challenges. While ADR has undoubtedly contributed to reducing litigation and promoting consensual dispute settlement, its effectiveness is often limited by institutional weaknesses, lack of awareness, procedural inconsistencies and structural inequalities. Consequently, the gap between the theoretical promise of ADR and its practical functioning remains an important concern within the Indian justice delivery system.

One of the most significant challenges is the limited public awareness regarding ADR mechanisms. A large section of litigants continues to perceive courts as the primary or only legitimate forum for dispute resolution. Many individuals remain unfamiliar with the

⁵⁸ Justice D.Y. Chandrachud, "Technology and the Future of Dispute Resolution in India", *Indian Journal of Arbitration Law*, Vol. 9 (2021).

advantages of mediation, conciliation and arbitration, resulting in underutilisation of these mechanisms.⁵⁹ In several instances, parties approach ADR only after being directed by courts rather than as a conscious and informed choice. The absence of widespread legal literacy concerning ADR reduces its potential to function as an effective first resort for dispute resolution.

Institutional capacity also presents a major obstacle. Although mediation centres, arbitration institutions and Lok Adalats have expanded considerably in recent years, the quality and availability of infrastructure vary significantly across jurisdictions. Many institutions continue to suffer from inadequate funding, shortage of trained professionals and inconsistent procedural standards.⁶⁰ The effectiveness of ADR depends not merely upon statutory recognition but upon the existence of competent institutions capable of delivering reliable and efficient services.

The shortage of trained mediators, conciliators and arbitrators further affects the quality of dispute resolution. Successful ADR processes require specialised skills in negotiation, communication, conflict management and procedural fairness. However, professional training and accreditation mechanisms in India are still developing. Variations in competence and experience among dispute resolution professionals may affect the consistency and credibility of outcomes.⁶¹ This concern becomes particularly significant in mediation, where the effectiveness of the process depends largely upon the ability of the mediator to facilitate constructive dialogue while maintaining neutrality.

Arbitration, despite being one of the most widely used ADR mechanisms, continues to face criticism regarding cost and delay. One of the principal reasons parties choose arbitration is the expectation of speedy resolution. In practice, however, complex arbitral proceedings often resemble conventional litigation in terms of duration and expense.⁶² High arbitrator fees, procedural complexity, multiple hearings and post-award challenges can significantly increase the overall cost of arbitration. As a result, arbitration may become inaccessible for small businesses and individual litigants, thereby limiting its usefulness as an alternative to court proceedings.

Judicial intervention remains another contentious issue. While courts play an important role in safeguarding legality and procedural fairness, excessive intervention can undermine the autonomy and efficiency that ADR seeks to promote. Historically, frequent judicial scrutiny of arbitral proceedings contributed to delays and uncertainty. Although recent judicial decisions and legislative amendments have attempted to minimise unnecessary interference, concerns regarding prolonged enforcement proceedings and challenges to arbitral awards continue to exist.⁶³

⁵⁹ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

⁶⁰ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁶¹ Sriram Panchu, *Mediation Practice and Law* 121-145 (LexisNexis, 2nd edn., 2022).

⁶² Aytar Singh, *Law of Arbitration and Conciliation* 89-118 (Eastern Book Company, 12th edn., 2023).

⁶³ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552.

A further challenge relates to the unequal bargaining power of disputing parties. ADR processes, particularly mediation and conciliation, are based on voluntary participation and negotiated settlement. However, where significant economic, social or informational disparities exist between the parties, there is a risk that weaker parties may accept unfavourable settlements.⁶⁴ This concern is especially relevant in employment disputes, consumer disputes, family matters and cases involving large corporate entities. The voluntary nature of ADR must therefore be balanced with safeguards that ensure fairness and informed consent.

Confidentiality, often cited as one of the advantages of ADR, can also create challenges. While confidentiality encourages open discussion and protects commercial interests, excessive secrecy may reduce transparency and limit the development of legal precedent.⁶⁵ Unlike court judgments, which contribute to the evolution of legal principles, many ADR outcomes remain private. This can be beneficial for the parties involved but may also restrict broader legal development and public accountability in certain categories of disputes.

The increasing use of technology in dispute resolution introduces additional concerns. As ADR mechanisms increasingly incorporate online platforms, questions relating to cybersecurity, privacy, data protection and digital accessibility become more significant. While technology has the potential to improve efficiency and accessibility, inadequate technological infrastructure and varying levels of digital literacy may prevent many individuals from fully benefiting from digital dispute resolution processes.⁶⁶ These concerns are particularly relevant in rural and economically disadvantaged regions where access to technology remains uneven.

Another practical difficulty is the absence of a strong culture of consensual dispute resolution. The Indian legal system has historically been litigation-oriented, and many lawyers and litigants continue to view adjudication as the preferred means of resolving disputes. This cultural preference often results in resistance towards negotiation and settlement-based approaches.⁶⁷ Changing this mindset requires sustained efforts through legal education, professional training and public awareness initiatives.

The implementation of the Mediation Act, 2023 offers significant opportunities for addressing some of these challenges. However, the success of the legislation will depend upon effective institutional development, professional training, public confidence and adequate regulatory support. Merely creating a statutory framework is insufficient unless it is accompanied by practical measures that facilitate accessibility, affordability and quality assurance.⁶⁸

The practical challenges facing ADR in India demonstrate that the effectiveness of alternative dispute resolution depends upon much more than legislative recognition. While ADR has made substantial contributions towards reducing litigation and improving access to justice, concerns relating to awareness, institutional capacity, professional competence, cost, judicial

⁶⁴ Owen M. Fiss, "Against Settlement", 93 Yale Law Journal 1073 (1984).

⁶⁵ Gary B. Born, *International Commercial Arbitration* 371-389 (Kluwer Law International, 3rd edn., 2021).

⁶⁶ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁶⁷ Marc Galanter, "The Emergence of the Judge as a Mediator in Civil Cases", 69 Judicature 257 (1986).

⁶⁸ The Mediation Act, 2023.

intervention and procedural fairness continue to affect its functioning. Addressing these challenges is essential if ADR is to realise its full potential as a credible and efficient component of the Indian justice delivery system. These concerns also provide an important context for understanding the emergence of Online Dispute Resolution, which seeks to address some of these limitations while simultaneously creating new challenges of its own.

CONCLUSION

The discussion in this chapter demonstrates that the development of Alternative Dispute Resolution in India is the result of a combination of constitutional principles, legislative initiatives and judicial support. The constitutional commitment to access to justice, particularly under Articles 14, 21 and 39A, has provided the normative foundation for the growth of ADR mechanisms. Legislative frameworks governing arbitration, conciliation, mediation and Lok Adalats have further strengthened the institutional structure necessary for effective dispute resolution outside conventional courts.

The chapter also highlights that arbitration, conciliation and mediation perform distinct yet complementary functions within the ADR framework. While arbitration offers a binding and adjudicatory mechanism particularly suited for commercial disputes, mediation and conciliation emphasise consensual settlement and preservation of relationships. Similarly, Lok Adalats and Permanent Lok Adalats have contributed significantly to improving access to justice by providing inexpensive and expeditious resolution of disputes, especially for socially and economically disadvantaged sections of society.

Judicial decisions have played a crucial role in shaping the trajectory of ADR in India. Through landmark judgments, the courts have encouraged the use of alternative mechanisms while simultaneously ensuring that principles of fairness, legality and public policy are preserved. The judiciary's evolving approach reflects an increasing recognition that effective justice delivery requires a combination of adjudicatory and settlement-oriented processes.

At the same time, the chapter reveals that several practical challenges continue to affect the functioning of ADR. Limited awareness, inadequate institutional infrastructure, shortage of trained professionals, concerns regarding cost and delay in arbitration, unequal bargaining power and procedural inconsistencies continue to restrict the full realisation of ADR's potential. These challenges indicate that legislative recognition alone is insufficient and must be accompanied by sustained institutional and regulatory reforms.

The growing influence of technology has added a new dimension to dispute resolution. As commercial and social interactions increasingly move to digital platforms, traditional ADR mechanisms are being adapted to meet the demands of a digital economy. This transformation has led to the emergence of Online Dispute Resolution (ODR), which seeks to combine the advantages of ADR with technological innovation. Understanding this transition requires a detailed examination of the concept, legal validity and practical implications of ODR, which forms the subject matter of the next chapter.

CHAPTER 3

ONLINE DISPUTE RESOLUTION: CONCEPT, RECOGNITION AND LEGAL VALIDITY

3.1 Meaning and Evolution of Online Dispute Resolution

The rapid expansion of digital technology has transformed almost every aspect of modern society, including commerce, communication, governance and legal services. As transactions increasingly occur through electronic platforms, disputes arising from such interactions have also grown in both volume and complexity. Traditional dispute resolution mechanisms, although effective in many circumstances, often struggle to address the speed, scale and geographical diversity associated with digital transactions. It is within this context that Online Dispute Resolution (ODR) has emerged as an innovative and technology-driven mechanism for resolving disputes in an efficient, accessible and cost-effective manner.⁶⁹

Online Dispute Resolution may be broadly defined as the use of information and communication technology to facilitate the resolution of disputes. It incorporates digital tools into existing dispute resolution processes such as negotiation, mediation, conciliation and arbitration. Rather than creating an entirely new form of justice, ODR extends the principles of Alternative Dispute Resolution into the digital environment. In essence, it combines the flexibility and consensual nature of ADR with the accessibility and efficiency offered by technological innovation.⁷⁰

The origins of ODR can be traced to the growth of internet-based commerce during the late twentieth century. As online transactions became increasingly common, traditional dispute resolution methods proved inadequate for handling large volumes of low-value disputes arising between parties located in different jurisdictions. The costs of litigation often exceeded the value of the dispute itself, making judicial remedies impractical. Consequently, technology-based dispute resolution mechanisms began to develop as a practical solution to this emerging challenge.⁷¹

One of the earliest and most influential examples of ODR was the dispute resolution system adopted by major e-commerce platforms. These platforms recognised that consumer confidence depended upon the availability of quick and accessible mechanisms for addressing grievances. By enabling parties to submit complaints, exchange information and reach settlements through online systems, ODR demonstrated its ability to resolve disputes efficiently without requiring physical hearings or extensive legal procedures.⁷² The success of

⁶⁹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁷⁰ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 1-18 (Jossey-Bass, 2001).

⁷¹ Ethan Katsh, "Dispute Resolution in Cyberspace", 28 Connecticut Law Review 953 (1996).

⁷² Colin Rule, *Online Dispute Resolution for Business* 15-34 (Jossey-Bass, 2002).

such initiatives contributed significantly to the global acceptance of technology-enabled dispute resolution.

The evolution of ODR has generally occurred through three stages. The first stage involved the use of technology merely as a communication tool. In this phase, e-mail, electronic document exchange and online messaging were used to facilitate conventional ADR processes. The second stage involved technology-assisted dispute resolution, where online platforms provided structured environments for negotiation, mediation and arbitration. The third and contemporary stage involves technology-driven processes that utilise automation, data analytics and, in some instances, artificial intelligence to assist dispute resolution.⁷³ This progression demonstrates that ODR has evolved from a simple technological aid into a sophisticated mechanism capable of managing complex dispute resolution processes.

ODR encompasses a variety of methods depending upon the nature of the dispute and the level of technological involvement. Online negotiation allows parties to communicate and settle disputes directly through digital platforms. Online mediation involves the assistance of a neutral mediator who conducts sessions through video conferencing or other digital communication tools. Online arbitration enables arbitrators to conduct proceedings, receive evidence and issue awards electronically. These mechanisms may operate independently or in combination, depending upon the requirements of the parties and the nature of the dispute.⁷⁴

The increasing acceptance of ODR is closely linked to its practical advantages. One of its most significant benefits is accessibility. Parties located in different cities, states or even countries can participate in proceedings without incurring substantial travel expenses or logistical difficulties. This feature is particularly valuable in a country such as India, where geographical distances often create barriers to effective participation in dispute resolution processes. ODR also reduces administrative costs, shortens procedural timelines and enables disputes to be resolved more efficiently than many traditional mechanisms.⁷⁵

The relevance of ODR became especially apparent during periods when physical interactions were restricted and legal institutions were required to function through digital means. The widespread use of virtual hearings, video conferencing and electronic filing demonstrated that technology could support legal processes without necessarily compromising fairness or procedural integrity.⁷⁶ Although virtual court proceedings are distinct from ODR, they contributed to broader acceptance of technology within the justice system and accelerated discussions regarding digital dispute resolution.

In India, ODR has received increasing attention from policymakers, legal institutions and industry stakeholders. The NITI Aayog ODR Policy Plan identified ODR as a promising mechanism for improving access to justice and addressing high-volume disputes in sectors such

⁷³ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 21-43 (Routledge, 2011).

⁷⁴ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

⁷⁵ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁷⁶ *In Re: Guidelines for Court Functioning through Video Conferencing During COVID-19 Pandemic*, (2020) 6 SCC 686.

as banking, insurance, e-commerce, consumer protection and digital payments.⁷⁷ The report emphasised that technology-enabled dispute resolution can reduce costs, improve efficiency and increase the availability of legal remedies for individuals who may otherwise be unable to pursue formal litigation.

The enactment of the Mediation Act, 2023 represents another important step in the evolution of ODR in India. By recognising online mediation as a legitimate mode of dispute resolution, the legislation acknowledges that digital platforms can play an important role in facilitating consensual settlement.⁷⁸ This recognition reflects a broader legislative acceptance of technology-enabled dispute resolution and signals the growing integration of ODR into India's legal framework.

Despite its advantages, the evolution of ODR has also generated important concerns. Critics argue that excessive reliance on technology may affect procedural fairness, transparency and meaningful participation. Questions have been raised regarding digital literacy, cybersecurity, privacy, confidentiality and the potential use of automated decision-making systems.⁷⁹ These concerns indicate that the future success of ODR will depend not only upon technological innovation but also upon the development of legal safeguards capable of protecting fundamental principles of justice.

The evolution of ODR demonstrates how dispute resolution mechanisms adapt to changing social and economic realities. What began as a practical response to online commercial disputes has gradually developed into a sophisticated framework capable of addressing a wide range of conflicts. By combining the principles of ADR with technological innovation, ODR offers the possibility of more accessible, efficient and user-friendly dispute resolution. However, its long-term legitimacy will depend upon its ability to balance technological efficiency with fairness, transparency and procedural justice. The growing significance of ODR therefore necessitates a closer examination of its relationship with traditional ADR mechanisms, which forms the focus of the next section.

3.2 Relationship between ADR and ODR

Online Dispute Resolution (ODR) is often described as the digital evolution of Alternative Dispute Resolution (ADR). Although the two concepts are closely related, they are not identical. ADR refers to a collection of dispute resolution processes that operate outside traditional court adjudication, including arbitration, mediation, conciliation and negotiation. ODR, on the other hand, refers to the use of technology to facilitate, support or conduct these dispute resolution processes. Therefore, ODR should not be viewed as an independent

⁷⁷ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁷⁸ The Mediation Act, 2023.

⁷⁹ Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

substitute for ADR but rather as a technological extension that enhances the accessibility and efficiency of existing ADR mechanisms.⁸⁰

The relationship between ADR and ODR is based upon a common objective: the resolution of disputes in a manner that is faster, less expensive and more flexible than conventional litigation. Both systems seek to reduce procedural complexity, encourage party participation and minimise the adversarial nature of dispute resolution. The difference lies primarily in the medium through which the process is conducted. While traditional ADR generally requires physical interaction between parties, neutrals and institutions, ODR enables the same processes to be conducted through digital platforms, video conferencing tools, online communication systems and electronic document management mechanisms.⁸¹

From a conceptual perspective, ODR incorporates the fundamental principles of ADR. Party autonomy continues to remain central because disputing parties voluntarily agree to participate in the process and retain substantial control over procedural choices. Confidentiality remains an important consideration, particularly in online mediation and arbitration. Neutrality and procedural fairness continue to guide the conduct of mediators, conciliators and arbitrators. Thus, the core values that define ADR remain applicable in the online environment.⁸²

The development of ODR has been driven largely by the limitations of conventional ADR in addressing disputes arising from digital transactions. In traditional ADR, geographical distance, travel expenses, scheduling difficulties and administrative costs may create barriers to participation. These challenges become particularly significant where disputes involve parties located in different jurisdictions or where the value of the dispute is relatively small. ODR addresses these concerns by enabling parties to participate remotely, exchange documents electronically and engage in proceedings without the need for physical presence.⁸³

The relationship between ADR and ODR may be understood through different models of technological integration. In the first model, technology functions merely as a communication tool. For example, mediation sessions may be conducted through video conferencing while the substantive process remains identical to traditional mediation. In the second model, technology facilitates dispute resolution through online case management systems, automated scheduling and digital document exchange. In the third model, technology assumes a more active role by providing automated negotiation tools, algorithm-assisted settlement proposals or artificial intelligence-supported dispute management systems.⁸⁴ The degree of technological involvement therefore varies considerably across different ODR platforms.

Mediation has emerged as one of the most successful forms of ODR. The flexibility and consensual nature of mediation make it particularly adaptable to online environments. Parties can communicate through video conferencing, exchange documents electronically and

⁸⁰ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 18-32 (Jossey-Bass, 2001).

⁸¹ Colin Rule, *Online Dispute Resolution for Business* 34-58 (Jossey-Bass, 2002).

⁸² Sriram Panchu, *Mediation Practice and Law* 51-76 (LexisNexis, 2nd edn., 2022).

⁸³ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

⁸⁴ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 43-68 (Routledge, 2011).

participate in negotiations without geographical constraints. The recognition of online mediation under the Mediation Act, 2023 reflects legislative acknowledgement of the growing importance of technology-enabled settlement mechanisms.⁸⁵ Online mediation has become especially relevant in commercial, consumer and family disputes where physical meetings may be impractical or unnecessarily expensive.

Arbitration has also benefited significantly from technological integration. Modern arbitral proceedings increasingly utilise electronic filings, virtual hearings, digital evidence management systems and online communication platforms. International commercial arbitration institutions around the world have adopted technology-driven procedures that reduce costs and improve efficiency.⁸⁶ In India, the increasing acceptance of virtual hearings and digital documentation has contributed to the gradual development of online arbitration practices, particularly in commercial disputes.

The relationship between ADR and ODR is particularly evident in consumer and e-commerce disputes. Traditional litigation is often impractical for low-value consumer claims because the cost of pursuing legal remedies may exceed the value of the dispute itself. ODR enables such disputes to be resolved quickly and economically through online complaint mechanisms, negotiation platforms and digital mediation systems.⁸⁷ Consequently, ODR has become an essential component of modern consumer protection frameworks and digital marketplace governance.

Despite these advantages, ODR cannot entirely replace traditional ADR. Certain categories of disputes may require face-to-face interaction, detailed evidentiary examination or personal engagement that is difficult to replicate through digital platforms. Family disputes involving emotional sensitivities, complex commercial disputes requiring extensive evidence and disputes involving parties with limited technological access may not always be suitable for fully online resolution.⁸⁸ Therefore, ODR should be viewed as a complementary mechanism rather than a universal substitute for conventional ADR.

The relationship between ADR and ODR also raises important questions regarding procedural fairness. While technology enhances efficiency and accessibility, it may simultaneously create challenges relating to digital literacy, unequal access to technology and communication barriers. The effectiveness of ODR therefore depends upon ensuring that technological convenience does not undermine the principles of equality and fairness that form the foundation of ADR.⁸⁹ A dispute resolution system that excludes individuals lacking technological resources cannot fully satisfy the objective of access to justice.

Another significant aspect of this relationship concerns trust and legitimacy. ADR has gradually acquired institutional credibility through legislative recognition, judicial support and

⁸⁵ The Mediation Act, 2023.

⁸⁶ Gary B. Born, *International Commercial Arbitration* 465-488 (Kluwer Law International, 3rd edn., 2021).

⁸⁷ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

⁸⁸ Owen M. Fiss, "Against Settlement", 93 Yale Law Journal 1073 (1984).

⁸⁹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

professional practice. ODR, being a relatively recent development, continues to face questions regarding confidentiality, cybersecurity, data protection and transparency. Consequently, the future growth of ODR will depend largely upon its ability to maintain the procedural safeguards and ethical standards traditionally associated with ADR.⁹⁰

The relationship between ADR and ODR is therefore one of continuity rather than replacement. ODR builds upon the principles, objectives and procedural foundations of ADR while adapting them to the realities of a digital society. The two mechanisms share a common commitment to efficient, accessible and participatory dispute resolution. However, the integration of technology introduces new opportunities as well as new challenges. Understanding this relationship is essential for evaluating the legal validity and regulatory framework governing ODR, which will be examined in the following section.

3.3 Legal Validity of Electronic Communication, Digital Agreements and Online Proceedings

The effectiveness of Online Dispute Resolution depends fundamentally upon the legal recognition of electronic communication, digital agreements and online proceedings. Unlike traditional ADR processes, which are primarily conducted through physical interaction and paper-based documentation, ODR relies heavily upon digital technologies for communication, evidence submission, record management and dispute resolution. Consequently, the legitimacy and enforceability of ODR mechanisms require a legal framework that recognises electronic transactions and accords them the same validity as their physical counterparts.⁹¹

The legal foundation for electronic transactions in India is primarily provided by the Information Technology Act, 2000. The enactment of this legislation marked a significant shift in Indian law by recognising electronic records and digital signatures and facilitating electronic commerce.⁹² Prior to the enactment of the Information Technology Act, legal transactions were generally dependent upon paper-based documentation and handwritten signatures. The growing use of electronic communication in commercial and personal transactions necessitated a legal framework capable of accommodating digital interactions without compromising legal certainty. The Act therefore established the principle that electronic records and digital signatures could possess legal validity and enforceability equivalent to traditional forms of documentation.

The recognition of electronic records has particular significance for ODR because dispute resolution processes frequently involve the exchange of digital communications, electronic contracts, emails, online forms and electronically stored documents. In modern commercial transactions, contractual relationships are often created through online platforms without any

⁹⁰ Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 Pepperdine Dispute Resolution Law Journal 19 (2012).

⁹¹ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 33-49 (Jossey-Bass, 2001).

⁹² The Information Technology Act, 2000.

physical interaction between the parties. The validity of such agreements is therefore essential to the functioning of ODR. Indian law recognises that contractual obligations may arise through electronic means provided that the essential requirements of a valid contract, including free consent, lawful consideration and lawful object, are satisfied.⁹³

The growth of e-commerce has further strengthened the importance of digital agreements. Online marketplaces, digital payment systems, financial technology platforms and service applications routinely operate through electronic contracts. These agreements are commonly concluded through click-wrap, browse-wrap or electronic acceptance mechanisms. Courts have increasingly recognised that contractual obligations cannot be denied merely because they were formed electronically rather than through traditional written documents.⁹⁴ Such recognition is crucial because a significant proportion of disputes addressed through ODR originate from digital transactions.

The Bharatiya Sakshya Adhiniyam, 2023 has further strengthened the legal foundation of ODR by recognising electronic and digital records as admissible forms of documentary evidence.⁹⁵ The modern law of evidence reflects the reality that commercial and personal interactions increasingly occur through digital platforms. Emails, electronic records, electronic messages, digital documents and other forms of electronically generated information may therefore be relied upon in legal proceedings subject to compliance with evidentiary requirements. This recognition is particularly important for ODR because disputes are often resolved on the basis of electronically generated evidence rather than traditional documentary records.

The legal validity of online proceedings is also closely connected with the broader acceptance of technology within the justice system. The increasing use of video conferencing, electronic filing systems and virtual hearings has demonstrated that legal proceedings can be conducted through digital means without necessarily compromising procedural fairness.⁹⁶ Although virtual court proceedings differ from ODR, they reinforce the broader principle that physical presence is not always essential for effective dispute resolution. The successful adoption of technology within judicial institutions has contributed significantly to the legitimacy of online dispute resolution mechanisms.

Mediation provides a useful illustration of legislative adaptation to technological change. The Mediation Act, 2023 expressly recognises online mediation and permits the conduct of mediation through electronic means.⁹⁷ This legislative recognition represents a significant development because it acknowledges that consensual dispute resolution can occur effectively in virtual environments. By providing statutory support for online mediation, the law enhances confidence in the enforceability and legitimacy of settlements reached through digital processes.

⁹³ Avtar Singh, *Law of Contract and Specific Relief* 98-112 (Eastern Book Company, 14th edn., 2023).

⁹⁴ *Trimex International FZE Ltd. v. Vedanta Aluminium Ltd.*, (2010) 3 SCC 1.

⁹⁵ The Bharatiya Sakshya Adhiniyam, 2023.

⁹⁶ *In Re: Guidelines for Court Functioning through Video Conferencing During COVID-19 Pandemic*, (2020) 6 SCC 686.

⁹⁷ The Mediation Act, 2023.

Similarly, arbitration has increasingly incorporated technological tools into its procedures. Electronic filing of pleadings, virtual hearings, digital evidence management and online communication between parties have become common features of modern arbitral practice.⁹⁸ International arbitration institutions have adopted detailed protocols governing remote hearings and digital proceedings, reflecting a growing global consensus regarding the legitimacy of technology-enabled arbitration. Indian arbitration practice has also moved in this direction, particularly following the increased acceptance of virtual proceedings in recent years.

Despite these developments, several legal challenges remain. One significant concern relates to authentication and identity verification. In physical proceedings, the identity of participants can generally be verified through personal appearance and documentation. In online environments, however, ensuring that communications originate from the intended individual and that electronic records have not been altered presents additional challenges.⁹⁹ Robust mechanisms for digital authentication are therefore essential for maintaining confidence in ODR processes.

Data security and confidentiality represent another important concern. ADR has traditionally been valued for its confidential nature, particularly in commercial disputes. ODR platforms must therefore ensure that sensitive information exchanged during proceedings remains protected from unauthorised access, disclosure or manipulation.¹⁰⁰ The increasing volume of personal and commercial data processed through digital systems requires strong safeguards to preserve privacy and maintain trust in online dispute resolution mechanisms.

Cross-border enforceability presents a further challenge. Many disputes arising from e-commerce and digital transactions involve parties located in different jurisdictions. While domestic legal frameworks may recognise electronic agreements and online proceedings, questions may arise regarding the recognition and enforcement of outcomes across national borders. This issue highlights the importance of international cooperation and harmonisation in the regulation of ODR.¹⁰¹

The legal validity of electronic communication, digital agreements and online proceedings forms the cornerstone of Online Dispute Resolution. Indian law has made substantial progress in recognising electronic records, digital contracts and technology-enabled dispute resolution processes. Legislative developments, particularly the Information Technology Act, 2000, the Bharatiya Sakshya Adhiniyam, 2023 and the Mediation Act, 2023, have provided an increasingly supportive framework for the growth of ODR. Nevertheless, concerns relating to authentication, confidentiality, cybersecurity and cross-border enforceability continue to require careful regulatory attention. Addressing these issues is essential for ensuring that ODR remains both legally valid and practically reliable in an increasingly digital world.

⁹⁸ Gary B. Born, *International Commercial Arbitration* 489-517 (Kluwer Law International, 3rd edn., 2021).

⁹⁹ Stephen Mason, *Electronic Evidence* 67-94 (Institute of Advanced Legal Studies, 5th edn., 2021).

¹⁰⁰ Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

¹⁰¹ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

3.4 ODR in Consumer, Commercial, FinTech and E-Commerce Disputes

Online Dispute Resolution has particular relevance in disputes arising from consumer transactions, commercial dealings, financial technology services and e-commerce platforms. These sectors generate a large number of disputes, many of which are low-value but high-volume in nature. Traditional litigation is often unsuitable for such disputes because the cost, delay and procedural burden of approaching courts may exceed the value of the claim itself. ODR provides a practical alternative by enabling parties to resolve disputes quickly through digital communication, online negotiation, electronic document exchange and virtual mediation or arbitration.¹⁰²

Consumer disputes are among the most suitable categories for ODR. Modern consumers frequently purchase goods and services through digital platforms, mobile applications and online marketplaces. Disputes may arise regarding defective goods, delayed delivery, refund claims, misleading advertisements, deficient services and unfair trade practices. In such cases, an online mechanism can provide faster redressal than conventional litigation, especially where the consumer and seller are located in different places.¹⁰³ The Consumer Protection Act, 2019 has already recognised the importance of modern consumer protection in the digital economy, and the use of electronic filing and virtual hearings before consumer commissions further supports the growth of online dispute resolution in this field.

ODR is also highly relevant in commercial disputes, particularly where parties seek efficient and confidential resolution. Business entities often prefer dispute resolution mechanisms that protect commercial relationships and avoid public litigation. Online mediation and online arbitration can reduce logistical expenses, save time and allow participation of parties, lawyers and experts from different locations. This is particularly useful in contractual disputes involving supply chains, service agreements, franchise arrangements, commercial leases and small business transactions.¹⁰⁴ However, complex commercial disputes involving extensive evidence or high stakes may require a hybrid model, combining online procedural management with physical hearings where necessary.

The FinTech sector presents another important area for ODR adoption. Digital lending, online payments, insurance technology, investment platforms and app-based financial services generate disputes involving unauthorised transactions, failed payments, loan recovery, service charges, data misuse and customer grievance redressal. Such disputes often require quick resolution because delays may directly affect financial stability and consumer confidence.¹⁰⁵ ODR can assist financial institutions and customers by providing structured digital complaint resolution mechanisms that are faster and less formal than court proceedings.

¹⁰² NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹⁰³ The Consumer Protection Act, 2019.

¹⁰⁴ Gary B. Born, *International Commercial Arbitration* 489-517 (Kluwer Law International, 3rd edn., 2021).

¹⁰⁵ Reserve Bank of India, *Report of the Working Group on Digital Lending including Lending through Online Platforms and Mobile Apps* (2021).

In India, the need for ODR in financial disputes is particularly significant because of the rapid expansion of digital payments and online banking services. Small-value financial disputes may not justify formal litigation, yet unresolved grievances can weaken trust in digital financial systems. A well-designed ODR framework can provide accessible remedies while reducing pressure on courts and regulatory complaint systems. However, the use of ODR in FinTech must be accompanied by strong safeguards relating to data protection, authentication, consent and transparency, since financial disputes often involve sensitive personal and banking information.¹⁰⁶

E-commerce disputes form one of the strongest justifications for ODR. Online marketplaces connect buyers and sellers across regions, often without physical interaction. This creates disputes concerning product quality, non-delivery, refunds, platform liability, seller accountability and consumer ratings. Conventional jurisdictional rules may be difficult to apply where parties are located in different states or countries. ODR addresses this problem by allowing disputes to be managed within the digital environment in which the transaction occurred.¹⁰⁷ Many international platforms have demonstrated that online grievance systems can resolve large numbers of disputes without requiring formal court intervention.

The practical advantage of ODR in these sectors lies in its ability to provide tiered dispute resolution. At the first level, automated complaint registration and structured negotiation may help parties settle routine disputes. At the second level, a neutral mediator may assist parties through online mediation. At the third level, arbitration or adjudicatory mechanisms may be used where settlement fails. This tiered model is particularly effective for high-volume disputes because it prevents every grievance from immediately becoming a formal legal proceeding.¹⁰⁸

However, the expansion of ODR in consumer, commercial, FinTech and e-commerce disputes also raises important concerns. One concern is the imbalance of power between large corporations and individual consumers. If ODR platforms are designed or controlled by businesses without adequate neutrality, consumers may perceive the process as biased. The legitimacy of ODR therefore depends upon independence, transparency and procedural fairness.¹⁰⁹ A consumer must not be compelled into a process that is inaccessible, confusing or structurally favourable to the stronger party.

Another concern relates to digital exclusion. Many consumers may lack digital literacy, stable internet access or language support. If ODR platforms operate only in English or require advanced digital skills, they may exclude precisely those individuals who most need accessible dispute resolution. For ODR to be meaningful in India, platforms must be multilingual, mobile-friendly and designed for ordinary users rather than only lawyers or corporate entities.¹¹⁰

¹⁰⁶ The Digital Personal Data Protection Act, 2023.

¹⁰⁷ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 69-94 (Routledge, 2011).

¹⁰⁸ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

¹⁰⁹ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 50-72 (Jossey-Bass, 2001).

¹¹⁰ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

Confidentiality and data protection are equally important. Consumer and FinTech disputes may involve personal details, financial records, transaction histories, identity documents and sensitive communications. ODR platforms must therefore comply with privacy and data protection norms and adopt strong cybersecurity practices. The Digital Personal Data Protection Act, 2023 is relevant in this context because it places emphasis on lawful and responsible processing of digital personal data.¹¹¹

ODR has the capacity to transform dispute resolution in consumer, commercial, FinTech and e-commerce sectors by making remedies faster, cheaper and more accessible. Its greatest value lies in disputes where traditional litigation is disproportionate to the amount involved. However, the success of ODR depends upon institutional neutrality, technological accessibility, data security and enforceable outcomes. Unless these safeguards are ensured, ODR may become merely a digital convenience for stronger parties rather than a genuine instrument of access to justice.

3.5 Confidentiality, Data Protection and Procedural Fairness in ODR

Confidentiality, data protection and procedural fairness constitute the foundational pillars of any credible Online Dispute Resolution (ODR) framework. While ODR promises greater accessibility, efficiency and convenience, its legitimacy ultimately depends upon whether it can preserve the same standards of fairness and trust that are expected in traditional dispute resolution processes. Unlike conventional ADR proceedings, ODR operates through digital platforms that collect, store, process and transmit significant amounts of information. Consequently, concerns relating to privacy, security and due process assume far greater importance in the online environment.¹¹²

Confidentiality has traditionally been regarded as one of the principal advantages of ADR. Parties often prefer mediation, conciliation and arbitration because sensitive commercial information, financial records, trade secrets and personal communications remain protected from public disclosure. The same expectation exists in ODR. However, digital dispute resolution introduces additional risks because information is stored electronically and may be vulnerable to unauthorised access, cyberattacks, data breaches or accidental disclosure.¹¹³ The protection of confidential information therefore requires not only legal safeguards but also robust technological infrastructure.

The Mediation Act, 2023 places significant emphasis on confidentiality. The Act requires mediation proceedings to remain confidential and restricts disclosure of communications made during the mediation process except in limited circumstances recognised by law. These protections apply equally to online mediation and are intended to encourage open and honest

¹¹¹ The Digital Personal Data Protection Act, 2023.

¹¹² Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 73-98 (Jossey-Bass, 2001).

¹¹³ Colin Rule, *Online Dispute Resolution for Business* 105-127 (Jossey-Bass, 2002).

communication between parties.¹¹⁴ The effectiveness of these protections, however, depends upon the ability of digital platforms to maintain secure systems capable of preventing unauthorised access to mediation records and communications.

Data protection has become an equally important concern in the digital age. ODR platforms routinely process personal information, identity documents, financial data, contractual records, communication histories and settlement agreements. Such information may be highly sensitive, particularly in consumer, financial, employment and family disputes. The Digital Personal Data Protection Act, 2023 provides an important legal framework governing the collection, storage and processing of digital personal data. The legislation is based upon principles such as lawful processing, informed consent, purpose limitation and reasonable security safeguards.¹¹⁵

The relevance of data protection law to ODR is substantial. ODR service providers frequently function as custodians of sensitive information belonging to disputing parties. They must therefore ensure compliance with legal obligations relating to data security, storage practices and lawful use of personal information. Failure to protect such information may not only expose parties to harm but may also undermine public confidence in online dispute resolution mechanisms.¹¹⁶

Cybersecurity presents a related challenge. Unlike physical ADR proceedings, online dispute resolution depends entirely upon technological systems and digital networks. The possibility of hacking, identity theft, manipulation of electronic records and unauthorised surveillance creates risks that are largely absent in traditional face-to-face proceedings.¹¹⁷ These concerns become particularly significant in high-value commercial disputes where confidential business information may be involved. Effective cybersecurity measures are therefore essential for maintaining the integrity and reliability of ODR processes.

Procedural fairness represents another critical aspect of ODR. The principle of procedural fairness requires that parties receive adequate notice of proceedings, a reasonable opportunity to present their case, equal treatment and an impartial decision-making process. These requirements are fundamental to the legitimacy of any dispute resolution system, whether conducted online or offline.¹¹⁸ The adoption of technology cannot justify the dilution of basic procedural safeguards.

One challenge frequently identified in relation to ODR is the digital divide. Effective participation in online proceedings requires access to internet connectivity, technological devices and a minimum level of digital literacy. Individuals lacking these resources may face difficulties in presenting their claims or understanding the dispute resolution process.¹¹⁹ If such

¹¹⁴ Sriram Panchu, *Mediation Practice and Law* 201-219 (LexisNexis, 2nd edn., 2022).

¹¹⁵ The Digital Personal Data Protection Act, 2023.

¹¹⁶ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹¹⁷ Stephen Mason, *Electronic Evidence* 145-176 (Institute of Advanced Legal Studies, 5th edn., 2021).

¹¹⁸ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹⁹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

barriers are not addressed, ODR may inadvertently create new forms of exclusion while attempting to improve access to justice.

Language and communication barriers also affect procedural fairness. India is characterised by significant linguistic diversity, and many users may not be comfortable conducting legal proceedings in English. ODR platforms that fail to provide multilingual support risk excluding substantial sections of the population. Consequently, inclusivity requires the development of user-friendly platforms capable of accommodating different languages and varying levels of technological competence.¹²⁰

Another concern relates to the increasing use of automated systems and artificial intelligence within dispute resolution processes. Technology may assist in case management, document review and settlement recommendations. While such tools can improve efficiency, excessive reliance on automated systems may raise concerns regarding transparency, accountability and bias.¹²¹ Parties must be able to understand how decisions affecting their rights are reached. A lack of transparency in algorithmic processes may undermine confidence in the fairness of the system.

The principle of neutrality remains equally important in ODR. Whether disputes are resolved through online mediation, arbitration or negotiation, parties must be confident that the platform and the neutral facilitator are independent and unbiased. If digital platforms are controlled by one party to the dispute or operate without adequate oversight, concerns regarding fairness and legitimacy may arise.¹²²

Confidentiality, data protection and procedural fairness are therefore not peripheral concerns but central requirements for the success of ODR. The efficiency and convenience offered by technology cannot compensate for deficiencies in privacy protection, security safeguards or due process. The future growth of ODR in India will depend upon the ability of legislators, institutions and technology providers to create systems that are secure, transparent and accessible. Only by maintaining these safeguards can ODR fulfil its promise of enhancing access to justice while preserving the fundamental values of fairness and legality that underpin the rule of law.

CONCLUSION

The discussion in this chapter demonstrates that Online Dispute Resolution has emerged as a significant development in the evolution of modern dispute resolution systems. Rather than functioning as an entirely separate mechanism, ODR builds upon the foundational principles of Alternative Dispute Resolution and adapts them to the requirements of a technology-driven society. By integrating digital communication tools with processes such as negotiation,

¹²⁰ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

¹²¹ Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

¹²² Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 95-122 (Routledge, 2011).

mediation and arbitration, ODR seeks to provide accessible, efficient and cost-effective methods for resolving disputes arising in an increasingly digital economy.

The chapter highlights that the legal validity of ODR in India is supported by a combination of legislative and judicial developments. The Information Technology Act, 2000 provides legal recognition to electronic records and digital signatures, while the Bharatiya Sakshya Adhiniyam, 2023 recognises electronic and digital records as admissible evidence. Further, the Mediation Act, 2023 expressly recognises online mediation, reflecting legislative acceptance of technology-enabled dispute resolution. These developments collectively provide an important legal foundation for the growth of ODR within the Indian legal system.

The study also demonstrates the practical relevance of ODR in sectors such as consumer protection, e-commerce, commercial transactions and financial technology services. In these sectors, disputes are often high in volume but relatively low in individual value, making conventional litigation inefficient and economically impractical. ODR offers a mechanism through which such disputes can be resolved more quickly and at lower cost while reducing pressure on judicial institutions.

At the same time, the chapter identifies several challenges that must be addressed before ODR can realise its full potential. Issues relating to confidentiality, data protection, cybersecurity, digital exclusion, procedural fairness and algorithmic transparency continue to raise important legal and ethical concerns. The increasing reliance on technology must not undermine fundamental principles of justice, including equality of participation, neutrality and due process. The success of ODR therefore depends not only upon technological innovation but also upon the establishment of effective legal safeguards and institutional accountability.

The analysis ultimately suggests that ODR has the potential to significantly improve access to justice in India, particularly in disputes arising from the digital economy. However, its long-term legitimacy will depend upon the extent to which efficiency is balanced with fairness, transparency and protection of rights. Having examined the concept, legal basis and operational dimensions of ODR, it is now necessary to critically evaluate the broader effectiveness of both ADR and ODR within the Indian justice delivery system. This evaluation forms the focus of the next chapter, which analyses their practical impact, limitations and continuing challenges.

CHAPTER 4

CRITICAL EVALUATION OF ADR AND ODR IN THE INDIAN JUSTICE SYSTEM

4.1 ADR and ODR as Tools for Access to Justice

Access to justice is one of the fundamental objectives of any legal system. The concept extends beyond the mere existence of courts and legal remedies; it encompasses the ability of individuals to obtain timely, affordable and effective resolution of disputes. In a country such as India, where judicial delays, high litigation costs and procedural complexities continue to affect the administration of justice, ADR and ODR have increasingly been viewed as important mechanisms for improving access to justice.¹²³ Their significance lies not only in reducing the burden on courts but also in expanding the availability of dispute resolution to individuals who might otherwise be unable to pursue their legal rights.

The constitutional basis for access to justice is found in Articles 14, 21 and 39A of the Constitution of India. Judicial interpretation has consistently recognised that meaningful access to legal remedies is an essential component of the rule of law and the guarantee of equality before the law.¹²⁴ ADR mechanisms contribute to this constitutional objective by offering procedures that are generally faster, less formal and less expensive than conventional litigation. Mediation, conciliation, arbitration and Lok Adalats provide parties with opportunities to resolve disputes without being subjected to prolonged court proceedings.

One of the greatest contributions of ADR has been its ability to address delays within the judicial system. The large volume of pending cases in Indian courts often results in prolonged litigation extending over several years. Such delays may discourage individuals from asserting their rights and can diminish public confidence in the justice delivery system.¹²⁵ ADR mechanisms attempt to overcome this problem by facilitating quicker settlement of disputes and reducing dependence on formal adjudication. Lok Adalats, for example, have played a significant role in disposing of large numbers of disputes through consensual settlement, thereby contributing to greater accessibility and efficiency.

Mediation has emerged as a particularly important instrument for improving access to justice. Under the Mediation Act, 2023, mediation has received comprehensive statutory recognition and institutional support. The Act encourages voluntary settlement and recognises mediated settlement agreements, thereby enhancing confidence in the process. Mediation is especially valuable in disputes where preservation of relationships is important, such as family disputes, commercial partnerships and community conflicts.¹²⁶ By focusing on consensus rather than

¹²³ *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509.

¹²⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹²⁵ Law Commission of India, *245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower* (2014).

¹²⁶ Sriram Panchu, *Mediation Practice and Law* 221-245 (LexisNexis, 2nd edn., 2022).

adversarial determination, mediation often produces outcomes that are more satisfactory to the parties than traditional litigation.

Arbitration contributes to access to justice in a different manner. It provides parties with greater procedural flexibility, specialised expertise and confidentiality. Commercial entities frequently prefer arbitration because it allows disputes to be resolved by decision-makers possessing technical knowledge and experience relevant to the subject matter of the dispute.¹²⁷ However, while arbitration promotes efficiency in many cases, concerns regarding cost and procedural complexity have limited its accessibility for smaller businesses and individual litigants. Consequently, arbitration has often been criticised for becoming an expensive alternative rather than a genuinely accessible substitute for litigation.

The emergence of ODR has expanded the access-to-justice debate by introducing technology as a tool for dispute resolution. ODR possesses the potential to overcome geographical barriers, reduce transaction costs and increase the availability of legal remedies. Through online negotiation, mediation and arbitration, parties can participate in proceedings without the need for physical presence. This is particularly important in a country characterised by significant geographical diversity and uneven distribution of legal infrastructure.¹²⁸

ODR is especially valuable in disputes arising from e-commerce, digital payments, online consumer transactions and financial technology services. In many such disputes, the cost of litigation exceeds the value of the claim itself. ODR enables parties to seek remedies through efficient and comparatively inexpensive processes that would otherwise be impractical through conventional legal channels.¹²⁹ As a result, ODR has the potential to make dispute resolution accessible to individuals who might not otherwise pursue legal action.

Despite these advantages, the effectiveness of ADR and ODR as tools for access to justice is not without limitations. One significant concern relates to unequal bargaining power. Settlement-oriented processes may not always protect weaker parties adequately, particularly where substantial economic or informational disparities exist between disputants.¹³⁰ In such situations, a negotiated settlement may reflect power imbalances rather than genuine consensus. This concern highlights the importance of procedural safeguards and skilled neutrals capable of ensuring fairness throughout the process.

Another challenge concerns awareness and accessibility. Many individuals remain unfamiliar with ADR and ODR mechanisms and continue to perceive courts as the only legitimate forum for dispute resolution. Lack of awareness, inadequate legal literacy and insufficient institutional outreach reduce the effectiveness of alternative dispute resolution initiatives.¹³¹ The mere availability of ADR or ODR does not guarantee access to justice unless individuals possess sufficient knowledge and confidence to utilise these mechanisms effectively.

¹²⁷ Gary B. Born, *International Commercial Arbitration* 523-551 (Kluwer Law International, 3rd edn., 2021).

¹²⁸ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹²⁹ Colin Rule, *Online Dispute Resolution for Business* 127-151 (Jossey-Bass, 2002).

¹³⁰ Owen M. Fiss, "Against Settlement", 93 *Yale Law Journal* 1073 (1984).

¹³¹ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

The digital divide presents a particularly significant challenge for ODR. Although technology has the potential to expand access, it may also exclude individuals who lack internet connectivity, digital literacy or access to technological devices. Rural populations, economically disadvantaged groups and elderly persons may encounter difficulties in participating effectively in online proceedings.¹³² Therefore, ODR cannot automatically be equated with greater access to justice. Its success depends upon ensuring that technological innovation remains inclusive and accessible.

Furthermore, access to justice must be assessed not only in terms of efficiency but also in terms of quality and fairness. A dispute resolution process that is fast but procedurally unfair cannot be considered a genuine advancement of justice. The legitimacy of ADR and ODR therefore depends upon maintaining transparency, neutrality, voluntariness and procedural integrity. Courts have repeatedly emphasised that alternative dispute resolution mechanisms must complement, rather than compromise, the fundamental values of the legal system.¹³³

ADR and ODR have undoubtedly expanded the possibilities for improving access to justice in India. They provide valuable alternatives to conventional litigation and offer significant advantages in terms of cost, speed and flexibility. Nevertheless, their effectiveness depends upon addressing concerns relating to awareness, institutional capacity, power imbalances and digital exclusion. While ADR and ODR have the potential to strengthen the justice delivery system, their contribution must ultimately be measured by their ability to deliver outcomes that are not only efficient but also fair, inclusive and consistent with constitutional principles. This critical evaluation forms the basis for examining the next important issue, namely the enforceability of awards and settlement agreements within ADR and ODR frameworks.

4.2 Enforceability of Awards and Settlement Agreements

The effectiveness of any dispute resolution mechanism depends not merely upon its ability to facilitate settlement or adjudication but upon the enforceability of the outcomes it produces. A dispute resolution process that generates decisions or settlements without providing an effective mechanism for enforcement cannot inspire confidence among parties. Consequently, the enforceability of arbitral awards, mediated settlements, conciliatory settlements and online dispute resolution outcomes occupies a central position in the evaluation of ADR and ODR. The growth of alternative dispute resolution in India has been closely linked to legislative efforts aimed at ensuring that outcomes reached outside traditional courts possess legal recognition and practical effectiveness.¹³⁴

Arbitration provides the strongest example of enforceability within the ADR framework. Under the Arbitration and Conciliation Act, 1996, an arbitral award is binding upon the parties and is enforceable in a manner similar to a decree of a court. The Act limits the grounds on which an

¹³² NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹³³ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

¹³⁴ Avtar Singh, *Law of Arbitration and Conciliation* 201-229 (Eastern Book Company, 12th edn., 2023).

award may be challenged, thereby promoting finality and certainty in dispute resolution.¹³⁵ This approach reflects international best practices and seeks to ensure that arbitration remains an effective alternative to litigation rather than merely an additional procedural stage preceding court enforcement.

The Supreme Court has consistently emphasised the importance of respecting arbitral awards and limiting unnecessary judicial interference. In *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* (BALCO), the Court reinforced the autonomy of arbitration and highlighted the need to align Indian arbitration law with international standards.¹³⁶ Similarly, in *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, the Court adopted a narrower interpretation of the public policy ground for setting aside arbitral awards, thereby strengthening the principle of finality.¹³⁷ These decisions reflect a judicial trend towards reducing excessive intervention and promoting confidence in arbitration as a reliable dispute resolution mechanism.

Despite these developments, concerns regarding arbitral enforcement continue to exist. Challenges to awards, prolonged enforcement proceedings and procedural delays occasionally diminish the efficiency that arbitration seeks to achieve. Although legislative amendments and judicial reforms have attempted to address these issues, critics argue that enforcement proceedings in India can still become time-consuming in complex commercial disputes.¹³⁸ Consequently, the practical effectiveness of arbitration depends not only upon the legal framework but also upon the efficiency with which courts handle enforcement-related matters.

Conciliation also benefits from a strong enforcement mechanism. The Arbitration and Conciliation Act, 1996 provides that a settlement agreement reached through conciliation has the same status and effect as an arbitral award on agreed terms. This legislative approach ensures that settlements reached through consensual processes possess legal certainty and are capable of enforcement.¹³⁹ The enforceability of conciliatory settlements enhances the attractiveness of conciliation by assuring parties that negotiated outcomes will receive legal protection comparable to arbitral awards.

Mediation has historically faced greater challenges regarding enforceability. Prior to the enactment of the Mediation Act, 2023, the enforceability of mediated settlements depended upon the legal context in which the settlement was reached. This sometimes created uncertainty and limited confidence in mediation as a standalone dispute resolution process. The Mediation Act, 2023 addresses this issue by recognising mediated settlement agreements and providing a statutory framework for their enforcement.¹⁴⁰ The legislation represents a significant step

¹³⁵ The Arbitration and Conciliation Act, 1996.

¹³⁶ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552.

¹³⁷ *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, (2019) 15 SCC 131.

¹³⁸ Law Commission of India, *246th Report on Amendments to the Arbitration and Conciliation Act, 1996* (2014).

¹³⁹ The Arbitration and Conciliation Act, 1996.

¹⁴⁰ The Mediation Act, 2023.

towards institutionalising mediation and enhancing its credibility within the Indian legal system.

The recognition of mediated settlement agreements under the Mediation Act is particularly important because mediation derives its strength from voluntary participation rather than adjudicatory authority. Parties are more likely to engage in mediation if they are confident that the resulting settlement will be legally enforceable. By providing legal recognition to mediated settlements, the Act seeks to balance voluntariness with certainty and enforceability.¹⁴¹

Lok Adalats provide another example of effective enforcement within the ADR framework. Awards passed by Lok Adalats are treated as equivalent to decrees of civil courts and are binding upon the parties. The finality attached to such awards has contributed significantly to the success of Lok Adalats in resolving large volumes of disputes through consensual settlement.¹⁴² Since the process is based upon mutual agreement, appellate challenges are generally unavailable, thereby promoting certainty and reducing further litigation.

The issue of enforceability becomes more complex in the context of Online Dispute Resolution. Since ODR is often conducted through digital platforms, questions arise regarding the legal status of electronically generated settlement agreements, online arbitration awards and digitally executed resolutions. The Information Technology Act, 2000 and the Bharatiya Sakshya Adhiniyam, 2023 provide an important legal basis for recognising electronic records, electronic communications and digital documentation.¹⁴³ These developments support the legal validity of ODR outcomes and facilitate their enforcement within the existing legal framework.

Online mediation has received explicit legislative recognition under the Mediation Act, 2023. Consequently, settlements reached through online mediation may receive the same legal treatment as settlements reached through physical mediation proceedings, provided that statutory requirements are satisfied.¹⁴⁴ This development significantly enhances the legitimacy of ODR by ensuring that the mode of communication does not affect the enforceability of the settlement.

Nevertheless, ODR presents unique challenges relating to authentication, consent and jurisdiction. Questions may arise regarding the identity of participants, the authenticity of electronic records and the voluntary nature of digital consent. In cross-border disputes, additional complications may emerge concerning recognition and enforcement across different legal systems.¹⁴⁵ These concerns highlight the need for clear procedural safeguards and technological standards capable of ensuring reliability and legal certainty.

International developments provide useful guidance in this regard. Instruments such as the UNCITRAL Model Law on International Commercial Mediation and the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation) seek to facilitate the recognition and enforcement of mediated

¹⁴¹ Sriram Panchu, *Mediation Practice and Law* 246-272 (LexisNexis, 2nd edn., 2022).

¹⁴² *State of Punjab v. Jalour Singh*, (2008) 2 SCC 660.

¹⁴³ The Information Technology Act, 2000; The Bharatiya Sakshya Adhiniyam, 2023.

¹⁴⁴ The Mediation Act, 2023.

¹⁴⁵ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

settlements across jurisdictions.¹⁴⁶ Such initiatives reflect growing international recognition that enforceability is essential for the success of modern dispute resolution mechanisms.

The enforceability of awards and settlement agreements remains one of the strongest indicators of the effectiveness of ADR and ODR. Legislative reforms in India have significantly strengthened the legal status of arbitral awards, conciliatory settlements, mediated agreements and Lok Adalat awards. At the same time, challenges relating to enforcement delays, judicial intervention, cross-border recognition and digital authentication continue to affect the practical operation of these mechanisms. The future success of ADR and ODR will depend upon the ability of the legal system to ensure that dispute resolution outcomes are not only fair and efficient but also capable of prompt and effective enforcement.

4.3 Institutional, Technological and Regulatory Challenges

The growing acceptance of ADR and ODR has undoubtedly expanded the range of dispute resolution options available to individuals and businesses. However, the effectiveness of these mechanisms depends not only upon statutory recognition but also upon the strength of the institutions responsible for their implementation. In India, several institutional, technological and regulatory challenges continue to hinder the full realisation of ADR and ODR as effective instruments of justice. These challenges are particularly significant because they affect both the credibility and accessibility of alternative dispute resolution mechanisms.¹⁴⁷

One of the foremost institutional challenges is the uneven development of ADR infrastructure across the country. While major metropolitan centres have witnessed the growth of arbitration institutions, mediation centres and specialised dispute resolution facilities, many smaller cities and rural areas continue to lack adequate institutional support.¹⁴⁸ The availability of trained professionals, modern infrastructure and administrative resources varies considerably from one region to another. Consequently, access to ADR remains uneven despite the existence of a supportive legal framework.

The shortage of qualified and professionally trained neutrals represents another significant concern. Effective mediation, conciliation and arbitration require specialised skills in communication, negotiation, legal analysis and dispute management. Although the Mediation Act, 2023 encourages institutional mediation and professional standards, India continues to face a shortage of adequately trained mediators and conciliators.¹⁴⁹ Inconsistent quality among dispute resolution professionals may affect public confidence in ADR processes and reduce the likelihood of successful settlements.

¹⁴⁶ United Nations Convention on International Settlement Agreements Resulting from Mediation, 2018 (Singapore Convention on Mediation).

¹⁴⁷ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹⁴⁸ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

¹⁴⁹ Sriram Panchu, *Mediation Practice and Law* 273-296 (LexisNexis, 2nd edn., 2022).

Institutional arbitration also faces challenges relating to standardisation and credibility. For many years, ad hoc arbitration dominated the Indian arbitration landscape. While ad hoc proceedings offer flexibility, they often suffer from procedural inconsistency, delays and administrative inefficiencies. Institutional arbitration seeks to overcome these limitations through established rules and administrative support. However, the growth of strong domestic arbitration institutions capable of competing with leading international centres remains a work in progress.¹⁵⁰

Technological challenges are even more pronounced in the context of ODR. The effectiveness of online dispute resolution depends upon reliable digital infrastructure, internet connectivity and technological accessibility. Although India has witnessed substantial digital growth, access to technology remains uneven. Large sections of the population continue to face difficulties arising from inadequate internet access, limited technological resources and varying levels of digital literacy.¹⁵¹ These limitations directly affect the ability of individuals to participate effectively in online dispute resolution proceedings.

The digital divide is particularly relevant from the perspective of access to justice. ODR is often presented as a mechanism capable of reducing geographical barriers and increasing accessibility. However, if significant sections of society lack the technological means necessary to participate, ODR may inadvertently deepen existing inequalities. Rural populations, economically disadvantaged groups, elderly individuals and persons with limited digital literacy may encounter substantial obstacles in accessing online dispute resolution services.¹⁵² Therefore, technological innovation must be accompanied by inclusive policies aimed at ensuring broad participation.

Cybersecurity constitutes another major challenge. ODR platforms routinely process sensitive information, including personal data, commercial records, financial information and confidential communications. The risk of data breaches, unauthorised access, cyberattacks and identity theft poses serious concerns for parties using digital dispute resolution mechanisms.¹⁵³ Without robust cybersecurity measures, confidence in ODR systems may be significantly undermined. The protection of digital information has therefore become a central requirement for the credibility of technology-enabled dispute resolution.

The regulatory framework governing ODR also remains underdeveloped. Although several statutes provide indirect support for online dispute resolution, India does not yet possess a comprehensive standalone legal framework dedicated specifically to ODR. Existing legislation such as the Information Technology Act, 2000, the Mediation Act, 2023 and the Digital Personal Data Protection Act, 2023 provide important legal foundations, but questions relating

¹⁵⁰ Avtar Singh, *Law of Arbitration and Conciliation* 231-258 (Eastern Book Company, 12th edn., 2023).

¹⁵¹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹⁵² Marc Galanter, "Why the 'Haves' Come Out Ahead", 9 *Law & Society Review* 95 (1974).

¹⁵³ Stephen Mason, *Electronic Evidence* 177-203 (Institute of Advanced Legal Studies, 5th edn., 2021).

to accreditation of ODR providers, technological standards, platform accountability and procedural safeguards remain largely unresolved.¹⁵⁴

Regulatory uncertainty becomes particularly problematic in cross-border disputes. Many disputes arising from e-commerce and digital transactions involve parties located in different jurisdictions. In such situations, questions concerning applicable law, jurisdiction, enforcement and recognition of outcomes become significantly more complex.¹⁵⁵ The absence of harmonised international standards for ODR can create uncertainty and discourage parties from relying upon online dispute resolution mechanisms in transnational disputes.

Another challenge concerns the regulation of emerging technologies such as artificial intelligence. Modern ODR platforms increasingly utilise automated systems for case management, document review and settlement assistance. While such technologies may improve efficiency, they also raise concerns regarding transparency, accountability and bias.¹⁵⁶ Parties may be reluctant to accept outcomes influenced by systems whose functioning is not fully understood or subject to adequate oversight. The use of artificial intelligence therefore requires careful regulation to ensure that technological efficiency does not undermine procedural fairness.

The issue of trust is closely linked to both institutional and regulatory challenges. Successful dispute resolution depends upon public confidence in the neutrality, competence and integrity of the process. ADR institutions and ODR platforms must therefore operate in a manner that inspires trust among users. This requires transparent procedures, professional standards, effective grievance mechanisms and appropriate regulatory supervision.¹⁵⁷ Without public confidence, even the most sophisticated dispute resolution mechanisms may struggle to achieve widespread acceptance.

The implementation of the Mediation Act, 2023 offers an opportunity to address some of these concerns. The Act promotes institutional mediation, encourages professional standards and recognises online mediation as a legitimate dispute resolution process. However, its success will depend upon effective implementation, adequate infrastructure and sustained investment in capacity building.¹⁵⁸ Similar efforts are necessary in relation to arbitration institutions and ODR platforms if India is to develop a robust and internationally competitive dispute resolution ecosystem.

The institutional, technological and regulatory challenges confronting ADR and ODR demonstrate that legal recognition alone is insufficient to ensure effective dispute resolution. The success of these mechanisms depends upon the development of strong institutions, inclusive technological infrastructure and clear regulatory standards. While India has made substantial progress in promoting alternative dispute resolution, significant reforms remain

¹⁵⁴ The Information Technology Act, 2000; The Mediation Act, 2023; The Digital Personal Data Protection Act, 2023.

¹⁵⁵ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

¹⁵⁶ Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

¹⁵⁷ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 123-148 (Routledge, 2011).

¹⁵⁸ The Mediation Act, 2023.

necessary to address issues relating to capacity, accessibility, cybersecurity and governance. Overcoming these challenges is essential if ADR and ODR are to fulfil their promise of providing efficient, accessible and trustworthy alternatives to traditional litigation.

4.4 Digital Divide, Inequality and Due Process Concerns

While Online Dispute Resolution offers significant advantages in terms of speed, convenience and cost-effectiveness, it also raises important concerns relating to digital exclusion, inequality and procedural fairness. The assumption that all individuals possess equal access to technology is often inconsistent with social realities, particularly in developing countries such as India. As a result, the expansion of ODR must be evaluated not only from the perspective of efficiency but also through the lens of access to justice and due process.¹⁵⁹

One of the primary challenges is the digital divide. Effective participation in ODR requires access to internet connectivity, digital devices and a basic level of technological literacy. Although digital infrastructure in India has expanded considerably, disparities continue to exist between urban and rural areas, as well as among different socio-economic groups. Individuals lacking technological resources may find it difficult to participate meaningfully in online proceedings, thereby limiting the accessibility that ODR seeks to promote.¹⁶⁰

Language barriers and educational limitations further aggravate this problem. Many ODR platforms operate primarily in English and require users to navigate digital interfaces that may not be accessible to persons with limited technological experience. Consequently, certain groups may face disadvantages in presenting their claims, understanding procedural requirements or negotiating settlements.

Due process concerns also arise in the online environment. Principles of natural justice require that parties receive adequate notice, an opportunity to present their case and equal treatment throughout the dispute resolution process. While ODR can facilitate participation, technical failures, connectivity issues and digital communication barriers may affect the ability of parties to engage effectively in proceedings. The challenge lies in ensuring that technological convenience does not compromise procedural fairness.¹⁶¹

Another concern relates to unequal bargaining power. In disputes involving large corporations and individual consumers, the stronger party may possess greater technological resources, legal expertise and familiarity with digital processes. This imbalance may influence settlement negotiations and affect the voluntariness of outcomes. Therefore, ODR systems must incorporate safeguards that protect weaker parties and ensure genuinely informed consent.

The increasing use of automated tools and artificial intelligence in dispute resolution has generated additional concerns regarding transparency and accountability. While automated

¹⁵⁹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹⁶⁰ Marc Galanter, "Why the 'Haves' Come Out Ahead", 9 *Law & Society Review* 95 (1974).

¹⁶¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

systems may improve efficiency, parties must be able to understand the basis of decisions or recommendations that affect their rights. Excessive reliance on opaque technological processes may undermine confidence in the fairness of dispute resolution outcomes.¹⁶²

The success of ODR ultimately depends upon its ability to remain inclusive and fair. Technological innovation should expand access to justice rather than create new forms of exclusion. Addressing issues relating to digital literacy, accessibility, language diversity and procedural safeguards is therefore essential for ensuring that ODR develops as a rights-oriented and citizen-centric mechanism of dispute resolution.

4.5 Judicial Control, Party Autonomy and Public Policy

One of the most significant issues in the functioning of ADR and ODR is the need to balance party autonomy with judicial supervision. Party autonomy is the foundation of alternative dispute resolution. It allows parties to choose the method of dispute resolution, select neutral facilitators or arbitrators, determine procedural rules and shape the manner in which disputes are resolved. This flexibility distinguishes ADR from traditional litigation and contributes to its efficiency and attractiveness.¹⁶³

Arbitration particularly reflects the principle of party autonomy. The Arbitration and Conciliation Act, 1996 permits parties to determine various aspects of the arbitral process, including the appointment of arbitrators, procedural rules and the conduct of proceedings. Similarly, mediation under the Mediation Act, 2023 is based upon voluntary participation and consensual settlement. Online dispute resolution further expands party autonomy by enabling parties to choose digital platforms and participate remotely according to their convenience.

However, complete autonomy without oversight may create risks of unfairness and abuse. Consequently, courts retain a supervisory role to ensure that ADR and ODR processes operate within the framework of law. Judicial intervention is particularly necessary where issues of fraud, coercion, bias, procedural irregularity or violation of fundamental legal principles arise. The challenge lies in ensuring that judicial review protects fairness without undermining the efficiency and independence of alternative dispute resolution mechanisms.¹⁶⁴

Public policy serves as an important limitation on party autonomy. Courts have consistently held that agreements or outcomes that violate fundamental legal principles cannot be enforced merely because the parties consented to them. In arbitration, for example, awards may be challenged where they conflict with public policy or basic notions of justice.¹⁶⁵ This principle

¹⁶² Susan Nauss Exon, "The Next Generation of Online Dispute Resolution", 12 *Pepperdine Dispute Resolution Law Journal* 19 (2012).

¹⁶³ Gary B. Born, *International Commercial Arbitration* 211-236 (Kluwer Law International, 3rd edn., 2021).

¹⁶⁴ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552.

¹⁶⁵ *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, (2019) 15 SCC 131.

preserves the integrity of the legal system and prevents ADR from becoming a means of circumventing mandatory legal norms.

Judicial decisions over the past decade indicate a growing effort to reduce excessive interference while preserving necessary oversight. The Supreme Court in *Vidya Drolia v. Durga Trading Corporation* emphasised that courts should generally respect arbitration agreements and minimise intervention at the referral stage.¹⁶⁶ Similarly, recent developments in mediation law reflect an intention to encourage settlement while maintaining safeguards against coercion and procedural unfairness.

In the context of ODR, the balance between autonomy and oversight becomes even more important. Since proceedings occur through digital platforms, concerns relating to consent, identity verification, confidentiality and data security require appropriate regulatory and judicial safeguards. Excessive regulation may discourage innovation, whereas inadequate oversight may undermine public confidence in technology-enabled dispute resolution.

The long-term success of ADR and ODR depends upon maintaining an appropriate equilibrium between party autonomy, judicial supervision and public policy considerations. Too much judicial intervention can transform ADR into another stage of litigation, while too little oversight may compromise fairness and legality. A balanced approach that respects party choice while safeguarding fundamental legal values is therefore essential for ensuring the credibility and effectiveness of alternative dispute resolution in India.¹⁶⁷

CONCLUSION

The analysis undertaken in this chapter demonstrates that ADR and ODR have emerged as significant components of the contemporary justice delivery system. Their importance lies not merely in reducing the burden on courts but in providing mechanisms that are capable of delivering faster, more flexible and often more accessible forms of dispute resolution. By promoting consensual settlement, party participation and procedural efficiency, ADR and ODR have expanded the range of options available to disputing parties and contributed to the broader objective of access to justice.

At the same time, the chapter reveals that the effectiveness of these mechanisms is influenced by several practical and structural challenges. Issues relating to enforceability, institutional capacity, professional competence, technological infrastructure, digital exclusion and regulatory uncertainty continue to affect the functioning of ADR and ODR. The increasing use of technology has created new opportunities for dispute resolution, but it has also generated concerns regarding privacy, cybersecurity, procedural fairness and accountability.

The discussion further highlights that party autonomy, although central to ADR and ODR, cannot operate in isolation from judicial supervision and public policy considerations. The legitimacy of alternative dispute resolution depends upon maintaining a balance between

¹⁶⁶ *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

¹⁶⁷ Avtar Singh, *Law of Arbitration and Conciliation* 259-276 (Eastern Book Company, 12th edn., 2023).

flexibility and fairness, efficiency and due process, innovation and accountability. Judicial decisions in recent years indicate a growing recognition of this balance and reflect an effort to promote alternative dispute resolution while preserving the fundamental values of the legal system.

Overall, ADR and ODR have demonstrated considerable potential to strengthen access to justice in India. However, their long-term success will depend upon continued institutional development, effective regulatory frameworks and safeguards that ensure inclusiveness and procedural integrity. These findings provide the foundation for the final chapter, which examines comparative international experiences, identifies key findings of the study and proposes reforms for strengthening the ADR and ODR framework in India.



CHAPTER 5

COMPARATIVE ANALYSIS, FINDINGS AND CONCLUSION

5.1 Comparative Analysis: UK, USA, EU, Singapore and UNCITRAL Perspectives

The development of ADR and ODR has not been confined to India. Several jurisdictions have adopted innovative legal and institutional frameworks to promote alternative dispute resolution and improve access to justice. A comparative analysis is useful because it highlights best practices, identifies regulatory gaps and provides guidance for future reforms. While India has made substantial progress through the Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023, valuable lessons may be drawn from the experiences of the United Kingdom, the United States, the European Union, Singapore and international instruments developed under the auspices of UNCITRAL.¹⁶⁸

The United Kingdom is widely regarded as one of the leading jurisdictions in the promotion of ADR. British courts have consistently encouraged mediation and settlement-oriented dispute resolution. Judicial decisions have emphasised that unreasonable refusal to participate in mediation may attract adverse cost consequences. This approach has significantly contributed to the growth of mediation as a mainstream dispute resolution mechanism rather than merely an alternative to litigation.¹⁶⁹ The United Kingdom has also witnessed increasing use of online dispute resolution, particularly in consumer and small-value civil disputes, where technology is utilised to improve accessibility and reduce procedural costs.

The United States played a pioneering role in the development of modern ADR and later became one of the earliest adopters of ODR. Mediation and arbitration are extensively used in commercial, employment, consumer and family disputes. The American experience demonstrates how institutional support and private-sector innovation can contribute to the expansion of alternative dispute resolution.¹⁷⁰ Major e-commerce platforms in the United States were among the first to implement large-scale ODR systems capable of resolving thousands of disputes efficiently through online negotiation and mediation. This experience illustrates the practical potential of technology-enabled dispute resolution in high-volume dispute environments.

The European Union has adopted a regulatory approach that places considerable emphasis on consumer protection and cross-border dispute resolution. Recognising the challenges posed by digital commerce, the European Union introduced frameworks encouraging online consumer dispute resolution and facilitating cross-border settlement of disputes arising within the internal

¹⁶⁸ Gary B. Born, *International Commercial Arbitration* 67-95 (Kluwer Law International, 3rd edn., 2021).

¹⁶⁹ *Halsey v. Milton Keynes General NHS Trust*, [2004] EWCA Civ 576.

¹⁷⁰ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* 99-122 (Jossey-Bass, 2001).

market.¹⁷¹ The European experience demonstrates the importance of harmonised regulatory standards, user-friendly digital platforms and strong consumer safeguards. It also highlights the role of ODR in enhancing confidence in digital markets.

Singapore has emerged as one of the most influential dispute resolution centres in Asia. The country has actively promoted arbitration, mediation and technology-enabled dispute resolution through supportive legislation and strong institutional infrastructure.¹⁷² Singapore's success is largely attributable to its emphasis on professional standards, institutional credibility and international cooperation. The adoption of the United Nations Convention on International Settlement Agreements Resulting from Mediation, commonly known as the Singapore Convention on Mediation, further reflects its commitment to strengthening the enforceability of mediated settlements across borders.

Internationally, UNCITRAL has played a crucial role in shaping ADR and ODR frameworks. The UNCITRAL Model Law on International Commercial Arbitration significantly influenced the drafting of the Arbitration and Conciliation Act, 1996 and contributed to the harmonisation of arbitration laws across jurisdictions.¹⁷³ Similarly, the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018 promotes legal certainty and enforceability in mediation. UNCITRAL has also issued Technical Notes on Online Dispute Resolution, recognising the growing importance of technology-enabled dispute resolution and providing guidance regarding fairness, transparency and accessibility.¹⁷⁴

A comparison of these jurisdictions reveals several common themes. First, successful ADR systems are supported by strong institutional frameworks and professional training mechanisms. Secondly, judicial support plays a crucial role in encouraging parties to utilise ADR processes. Thirdly, ODR frameworks function most effectively when accompanied by clear regulatory standards, technological safeguards and accessible digital infrastructure. Finally, international experience demonstrates that enforceability and user confidence are essential prerequisites for the long-term success of dispute resolution mechanisms.¹⁷⁵

India has made significant progress through legislative reforms and judicial support for ADR and ODR. However, the comparative analysis indicates that greater emphasis is required on institutional capacity building, accreditation of professionals, technological accessibility and comprehensive regulation of ODR platforms. Experiences from other jurisdictions demonstrate that technology alone cannot guarantee effective dispute resolution; institutional trust, procedural fairness and legal certainty remain equally important.

The comparative study suggests that India possesses a strong legal foundation for ADR and ODR but can benefit substantially from international best practices. The experiences of the

¹⁷¹ Pablo Cortés, *Online Dispute Resolution for Consumers in the European Union* 149-182 (Routledge, 2011).

¹⁷² Nadja Alexander, *Global Trends in Mediation* 213-228 (Kluwer Law International, 2nd edn., 2006).

¹⁷³ UNCITRAL Model Law on International Commercial Arbitration (1985, as amended in 2006).

¹⁷⁴ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

¹⁷⁵ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

United Kingdom, the United States, the European Union and Singapore illustrate the importance of integrating legislative support, institutional development and technological innovation within a coherent dispute resolution framework. International instruments developed by UNCITRAL further demonstrate the value of harmonised standards and enforceable outcomes. These comparative insights provide an important basis for identifying the key findings of the present study and formulating future reforms for strengthening dispute resolution in India.

5.2 Findings

The present study reveals that ADR has evolved from being a supplementary mechanism to becoming an integral component of the Indian justice delivery system. Legislative developments such as the Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987 and the Mediation Act, 2023 demonstrate a clear policy shift towards promoting consensual and efficient dispute resolution. Judicial decisions have further strengthened this trend by encouraging settlement-oriented processes and limiting unnecessary interference in ADR proceedings.¹⁷⁶

The study finds that ADR has contributed significantly to improving access to justice by providing alternatives that are generally faster, less formal and more cost-effective than conventional litigation. Mechanisms such as mediation, conciliation and Lok Adalats have been particularly successful in disputes where preservation of relationships and consensual outcomes are important. However, the effectiveness of ADR varies across different regions and sectors due to disparities in institutional infrastructure, awareness and professional expertise.

The research also establishes that arbitration remains the most developed form of ADR in India, particularly in commercial disputes. Nevertheless, concerns regarding cost, delay and excessive procedural complexity continue to affect its accessibility. In several instances, arbitration has become expensive enough to discourage smaller businesses and individual litigants from utilising the process effectively.¹⁷⁷

A significant finding of the study is that ODR represents a natural extension of ADR in the digital age. The legal validity of electronic records under the Information Technology Act, 2000, the recognition of electronic evidence under the Bharatiya Sakshya Adhiniyam, 2023 and the statutory recognition of online mediation under the Mediation Act, 2023 collectively provide a strong legal foundation for the growth of ODR in India. This demonstrates that existing legal frameworks are largely capable of accommodating technology-enabled dispute resolution.

The study further finds that ODR is particularly suitable for consumer disputes, e-commerce transactions, digital payment disputes, fintech grievances and other high-volume, low-value claims. In such matters, traditional litigation is often economically impractical, whereas ODR

¹⁷⁶ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

¹⁷⁷ Avtar Singh, *Law of Arbitration and Conciliation* 301-318 (Eastern Book Company, 12th edn., 2023).

provides a quicker and more accessible mechanism for obtaining remedies.¹⁷⁸ Consequently, ODR has considerable potential to enhance access to justice in sectors that are increasingly dependent upon digital transactions.

At the same time, the research identifies several challenges that limit the effectiveness of ODR. Digital inequality, inadequate technological infrastructure, lack of digital literacy and uneven internet access continue to restrict participation by significant sections of the population. These limitations indicate that technological innovation alone cannot guarantee greater access to justice unless accompanied by broader social and infrastructural development.¹⁷⁹

The study also finds that confidentiality, cybersecurity and data protection have become central concerns in technology-enabled dispute resolution. Since ODR platforms process substantial amounts of personal and commercial information, effective safeguards are necessary to protect privacy and maintain public confidence. The Digital Personal Data Protection Act, 2023 provides an important legal framework in this regard, but practical implementation remains critical.

Another important finding is that the long-term success of ADR and ODR depends upon maintaining an appropriate balance between party autonomy and judicial oversight. Excessive judicial intervention can undermine the efficiency and flexibility of alternative dispute resolution, while inadequate oversight may compromise fairness and legality. Recent judicial trends indicate a growing effort to achieve this balance, particularly in arbitration and mediation.¹⁸⁰

The comparative analysis undertaken in this study demonstrates that successful ADR and ODR systems are characterised by strong institutional support, professional training, technological accessibility and clear regulatory standards. Experiences from the United Kingdom, the United States, the European Union and Singapore indicate that legal recognition alone is insufficient unless accompanied by effective implementation and public trust in dispute resolution institutions.

Overall, the study finds that ADR and ODR possess substantial potential to strengthen access to justice in India. However, their effectiveness depends upon continuous institutional development, regulatory refinement, technological inclusiveness and professional capacity building. While considerable progress has been achieved, further reforms remain necessary to ensure that these mechanisms operate as genuinely accessible, fair and efficient alternatives to conventional litigation.

¹⁷⁸ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

¹⁷⁹ Marc Galanter, "Why the 'Haves' Come Out Ahead", 9 *Law & Society Review* 95 (1974).

¹⁸⁰ *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

5.3 Suggestions and Reforms

The effectiveness of ADR and ODR in India can be significantly enhanced through a combination of legislative, institutional and technological reforms. While the existing legal framework provides a strong foundation, greater emphasis must now be placed on implementation and capacity building.

First, there is a need to strengthen institutional infrastructure for mediation, arbitration and ODR across the country. The availability of quality dispute resolution services should not remain concentrated in metropolitan areas. Mediation centres, arbitration institutions and ODR facilities should be expanded to smaller cities and districts so that alternative dispute resolution becomes genuinely accessible to all sections of society.¹⁸¹

Secondly, professional training and accreditation mechanisms should be strengthened. The success of ADR depends heavily upon the competence and neutrality of mediators, conciliators and arbitrators. Structured training programmes, periodic certification and continuing professional education can improve the quality and credibility of dispute resolution services. Universities and law schools should also incorporate practical ADR and ODR training within legal education to create a skilled dispute resolution workforce.¹⁸²

Thirdly, greater public awareness is essential. Many litigants continue to view court litigation as the primary method of dispute resolution despite the availability of effective alternatives. Awareness campaigns, legal literacy programmes and institutional outreach initiatives should be undertaken to familiarise citizens with the advantages of mediation, arbitration and ODR. Increased awareness would encourage voluntary utilisation of these mechanisms rather than their use only after judicial referral.

In relation to ODR, technological accessibility must be treated as a priority. Digital platforms should be designed to accommodate users with varying levels of technological literacy. Multilingual interfaces, simplified procedures and mobile-friendly systems can significantly improve accessibility. Such measures are particularly important in a diverse country like India, where language and technological barriers often restrict effective participation.¹⁸³

Data protection and cybersecurity safeguards also require continuous strengthening. Since ODR involves the processing of sensitive personal and commercial information, service providers must adopt robust security standards and transparent data management practices. Compliance with the Digital Personal Data Protection Act, 2023 should be treated as a fundamental requirement for all ODR platforms. Strong privacy protections will enhance public confidence and encourage wider adoption of online dispute resolution.

A comprehensive regulatory framework specifically addressing ODR should also be considered. While existing laws provide substantial support for online dispute resolution, a dedicated framework could establish standards relating to accreditation, platform governance,

¹⁸¹ Law Commission of India, *222nd Report on Need for Justice-Dispensation through ADR etc.* (2009).

¹⁸² Sriram Panchu, *Mediation Practice and Law* 297-315 (LexisNexis, 2nd edn., 2022).

¹⁸³ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

confidentiality, technological security and procedural fairness. Such regulation would enhance certainty and promote uniformity in the functioning of ODR systems.¹⁸⁴

India should also continue aligning its dispute resolution framework with international best practices. Greater engagement with UNCITRAL standards, international mediation frameworks and global ODR developments would improve India's competitiveness as a dispute resolution destination. The promotion of institutional arbitration and mediation at international standards can strengthen India's position in cross-border commercial dispute resolution.

Finally, judicial support for ADR and ODR should continue while avoiding unnecessary intervention. Courts should encourage genuine settlement efforts and respect the autonomy of alternative dispute resolution processes, while retaining sufficient oversight to protect fairness and public policy. A balanced approach will ensure that efficiency is not achieved at the cost of justice.¹⁸⁵

The future of ADR and ODR in India depends less upon the creation of new laws and more upon effective implementation of existing frameworks. Strengthening institutions, improving professional standards, enhancing technological accessibility and building public trust can transform ADR and ODR into central pillars of the justice delivery system. If these reforms are pursued consistently, alternative dispute resolution can play a vital role in making justice more accessible, affordable and responsive to the needs of a rapidly evolving society.

5.4 Final Conclusion

Alternative Dispute Resolution and Online Dispute Resolution have emerged as indispensable components of the modern justice delivery system. The increasing complexity of social and commercial relationships, coupled with the challenges of judicial delay and rising litigation costs, has necessitated the development of mechanisms capable of providing efficient and accessible dispute resolution. ADR has responded to this need by offering processes such as arbitration, mediation, conciliation and Lok Adalats, while ODR has extended these mechanisms into the digital environment through the use of technology-enabled platforms and procedures.

The study demonstrates that India has developed a substantial legal framework supporting ADR and ODR. The Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987 and the Mediation Act, 2023 collectively provide the statutory foundation for alternative dispute resolution. Similarly, the Information Technology Act, 2000 and the Bharatiya Sakshya Adhiniyam, 2023 have strengthened the legal validity of electronic records, digital communications and online proceedings, thereby facilitating the growth of ODR. Judicial decisions have further reinforced these developments by encouraging settlement-

¹⁸⁴ UNCITRAL Technical Notes on Online Dispute Resolution (2016).

¹⁸⁵ *Salem Advocate Bar Association (II) v. Union of India*, (2005) 6 SCC 344.

oriented processes and recognising the importance of alternative mechanisms in achieving access to justice.¹⁸⁶

The research establishes that ADR and ODR offer several advantages over conventional litigation. They provide greater flexibility, reduced costs, faster resolution and increased party participation. ODR, in particular, possesses considerable potential to address disputes arising from digital commerce, financial technology services and online consumer transactions. By overcoming geographical barriers and simplifying procedural requirements, technology-enabled dispute resolution can significantly enhance access to justice for a large segment of the population.

At the same time, the study highlights that the success of ADR and ODR cannot be measured solely by efficiency. Concerns relating to institutional capacity, professional competence, digital inequality, cybersecurity, confidentiality and procedural fairness continue to affect their practical effectiveness. The legitimacy of alternative dispute resolution depends upon its ability to protect fundamental legal values while offering efficient alternatives to litigation. A dispute resolution mechanism that sacrifices fairness for speed cannot fulfil the constitutional objective of justice.

The comparative analysis undertaken in this study demonstrates that jurisdictions such as the United Kingdom, the United States, Singapore and members of the European Union have achieved notable success through strong institutions, professional standards and supportive regulatory frameworks. These experiences indicate that legal recognition alone is insufficient; effective implementation, technological accessibility and public confidence are equally essential. India can benefit from these experiences while adapting reforms to its own constitutional and socio-economic context.

The study ultimately concludes that ADR and ODR should not be viewed merely as alternatives to court-based adjudication. Rather, they constitute complementary mechanisms that form part of a broader justice ecosystem. Courts, ADR institutions and ODR platforms must operate in a coordinated manner so that disputants have access to the most appropriate mechanism for resolving their disputes. Such an integrated approach is more likely to promote efficiency, fairness and accessibility than reliance upon any single mode of dispute resolution.

In conclusion, ADR and ODR possess the capacity to transform the Indian justice delivery system by making dispute resolution more accessible, affordable and responsive to contemporary needs. However, their long-term success will depend upon continued institutional strengthening, technological inclusiveness, professional excellence and regulatory development. If these challenges are effectively addressed, ADR and ODR can play a crucial role in advancing the constitutional promise of equal and meaningful access to justice in the twenty-first century.

¹⁸⁶ *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509.

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