
ODR AND THE INDIAN JUDICIARY: A TECHNOLOGICAL DISRUPTION OR A COLLABORATIVE FUTURE?

Gargi Talukdar, Amity University Kolkata

ABSTRACT

India's judicial system is reeling with an overwhelming pendency of over 40 million cases, resulting in long delays in dispensing justice. Though traditional ADR tools such as arbitration, mediation, and conciliation, have been providing dispute resolution mechanisms as an alternative to litigation for ages, they themselves are getting clogged up with logistic hurdles, prohibitively high costs, and accessibility hurdles, especially for individuals in remote or lesser-served locations. ODR thereafter markets itself as a potential solution during such times by using information-technology to enable quick and affordable conflict resolution. By using information-technology to enable arbitration, mediation, and negotiation online, ODR brings speed, affordability, and accessibility into the court system. This paper examines whether ODR is an information-technology disruptor or cooperative force to empower the Indian Judiciary.

Introduction: The Rise of ODR in India

Online Dispute Resolution (ODR) is the use of technology for resolving disputes outside of the classic courtrooms using techniques like online arbitration, mediation, and negotiation. The seeds were sown in the early 2000s with success stories everywhere in the world like eBay and PayPal where millions of disputes were settled by automated means without exploring litigation. In India, gunning disputes first appeared in the form of legal IT pioneers like SAMA, Presolv360, and CADRE starting their online settlement of disputes, most typically with courts and regulators.

The paper on NITI Aayog, "*Designing the Future of Dispute Resolution: The ODR Policy Plan for India*", is an exhaustive blue print for shifting ODR into an integral part of the legal ecosystem¹. The paper tackles institutional reforms, setting up capacities, and developing trust in ODR tools in order to bring them mainstream. It also targets ODR not only as an ADR overlay, but as an ecology transformation. The roadmap comes in three phases: facilitating legal acceptance, designing scalable infrastructure, and mainstreaming ODR across consumer complaints, MSME complaints, financial recoveries, and e-commerce issues. NITI Aayog argues that courts need to move away from places to services, a vision consistent with Justice Chandrachud's "Court as a Service" approach. The objective is not to avoid the system, but to decongest with smaller, repetitive cases and concentrate judicial energies on big hitter cases like constitutional or crime charges.

Statutory Recognition and Judicial Sanction of ODR in India

India's judiciary has begun to extensively use Online conflict settlement (ODR), embedding technology into conflict resolution. *The Arbitration and Conciliation Act, 1996*, Sections 4 and 7, recognizes arbitration agreements made by electronic communication. *Section 74* also provides that mediated settlements done online or offline are enforceable under the law. *The Information Technology Act, 2000, Section 10-A* acknowledges electronic contracts, specifically stating a statutory framework for dispute resolution online. The revolutionary *Mediation Act, 2023, Section 30*, makes mediation by electronic means legally legitimate and thus e-mediation legal. Judicial acknowledgment has been no less significant.

¹ NITI AAYOG, DESIGNING THE FUTURE OF DISPUTE RESOLUTION: THE ODR POLICY PLAN FOR INDIA (Nov. 2020), <https://www.niti.gov.in/>.

The Delhi High Court's Samadhan Mediation Centre pioneered online mediation during COVID-19. In *M/S Shakti Bhog Ltd. v. Kola Shipping Ltd.*², the Supreme Court held that an arbitration agreement could be inferred from email communications. Earlier, in *Trimex International v. Vedanta Aluminium*³, electronic exchanges were held to constitute binding agreements. Administrative support is growing through judicial training initiatives and digital court reforms under e-Courts Phase III. Sectoral mandates like the Consumer Protection (E-Commerce) Rules, 2020, further push industries toward adopting ODR frameworks.

Challenges and Concerns: The Ethical, Legal, and Structural Pitfalls of ODR

The judiciary, by design, is slow to adopt rapid changes due to its focus on precedent, due process, and procedural safeguards. As **V.S. Reddy** notes in his SSRN article, "*ODR challenges the monopoly of traditional courts on adjudication by outsourcing dispute resolution to private, digital platforms*"⁴ This may be viewed with suspicion, especially regarding the enforceability of awards or settlements reached online. While urban India is increasingly tech-savvy, rural populations often lack the infrastructure or know-how to navigate ODR platforms. Concerns persist over jurisdiction in online disputes, enforcement of electronically signed settlements, ethical responsibilities of digital neutrals, data storage, and cross-border transfer norms. ODR operates in an informal and non-adversarial setting, especially in mediation and negotiation-based models. While this is ideal for quick resolution, it creates challenges. Many ODR decisions are not published or elaborated, reducing opportunities for jurisprudential development.

Especially in arbitration or automated decision-making, this can compromise fairness in more complex or high-stakes disputes. This can lead to a two-tiered system of justice: fast, informal, and opaque resolutions for the common citizen, and slow, rigorous, formal procedures for the elite, raising access-to-equality concerns⁵. Most modern ODR platforms integrate AI tools to match parties with neutrals, predict dispute outcomes, and even auto-generated settlement drafts. These algorithms are opaque (black boxes) with no clear auditing mechanisms. AI is

² *M/S Shakti Bhog Foods Ltd. v. Kola Shipping Ltd.*, AIR 2009 SC 12 (India).

³ *Trimex Int'l FZE Ltd., Dubai v. Vedanta Aluminium Ltd., India*, Arbitration Petition No. 10 of 2009, (2010) (India).

⁴ V.S. Reddy, *Online Dispute Resolution: Challenges to Traditional Adjudication* (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3856853

⁵ *Online Dispute Resolution in India: Opportunity and Challenges*, 2 INDIAN J. INFO. & RSCH. L. 4 (2022), <https://ijirl.com>.

trained on past data, which may encode biases against certain genders, communities, or geographies. A user may not even be aware that an algorithm influenced the outcome of their dispute, a violation of the *principle of Audi Alteram Partem*.

This disruption is technical, ethical, and legal, raising urgent questions about algorithmic accountability and procedural transparency. ODR platforms, especially when privately run represent a decentralization of dispute resolution powers. This decentralization can become a fragmentation when multiple platforms resolve similar types of disputes without standardised procedures, parties choose private ODR over courts for everything from matrimonial to IP disputes and, different platforms generate different outcomes, leading to regulatory inconsistencies. Without central oversight, this creates a patchwork of private justice systems, diluting the State's monopoly on legal adjudication, a core pillar of sovereign authority. ODR relies on digital infrastructure, cloud storage, and cross-border data flows. This leads to several disruptions and raises questions like 'where does the dispute occur? Physically or digitally?', 'which court has jurisdiction when parties are in different states/countries but used an Indian ODR platform?'.

ODR platforms often store data on foreign servers like, AWS, Google Cloud, which can violate India's data localization expectations and complicate evidence recovery. As ODR platforms become commercial ventures, there's a risk of prioritizing profitability over justice. Platforms may push parties to settle quickly to maintain high "resolution success rates," ignoring valid legal entitlements⁶. If private ODR providers monopolize dispute domains, justice becomes a pay-to-access service. Amazon and Flipkart have incorporated mandatory ODR clauses in buyer-seller disputes. While efficient, they leave little room for consumer contestation, especially when platforms control the process and outcome.

ODR as a Complementary Innovation: Enhancing Judicial Efficiency and Accessibility

While ODR may appear as a technological outlier, it is not an antithesis to the judicial process, it is increasingly seen as a complimentary innovation, one that enhances the delivery of justice without altering its core ethos. India's judiciary is overburdened with millions of pending cases, many of which are minor disputes involving low-stake values⁷. These consume precious

⁶ The Arbitration and Conciliation Act, No. 26 of 1996, §§ 4, 7, 30, 65-B, 74, INDIA CODE (1996).

⁷ The Information Technology Act, No. 21 of 2000, §§ 4-10A, INDIA CODE (2000).

judicial time that could be better spent on complex criminal, constitutional, or commercial litigation.

ODR provides an effective triaging mechanism wherein pre-litigation settlement platforms like **Presolv360, Sama, and CADRE** are already working with courts and regulatory bodies like SEBI and RBI, to resolve disputes before they even reach the docket. When Judiciary is added with ODR it creates a smart loading balancing mechanism. It also to be taken in consideration that traditional courtroom is not equally accessible to all. Factors like geographical remoteness, gender, caste, financial limitations, and digital illiteracy create barriers to participation in physical court processes. ODR can help bridge these gaps by making platforms offer vernacular support, mobile-first access, and asynchronous dispute resolution. ODR supports legal empowerment, particularly for women, disabled individuals, and rural citizens, who may otherwise hesitate to appear in adversarial courtrooms. In this way ODR has scope to become a judicial equalizer and not a disruptor. ODR is already embedded within India's court-led initiatives. The Delhi High Court Mediation and Conciliation Centre (**Samadhan**) has initiated online mediation. E-Courts Phase III by the Department of Justice emphasizes building digital dispute resolution interfaces for small and medium-value disputes⁸.

The Consumer Protection (E-Commerce) Rules, 2020 mandate online grievance redressal, an indirect push for sector-specific ODR. ODR platforms can serve as the judiciary's technological arm, handling pre-litigation screening, automated notice issuance, preliminary evidence submission, and scheduling and document management. For instance, courts can redirect petty offences to ODR, and High Courts may license private ODR providers as recognised ADR institutions under the Arbitration and Conciliation Act. Contrary to fears that ODR lacks precedential value, courts are increasingly recognizing and enforcing ODR outcomes. Settlements reached via online mediation are being enforced under Section 74 of the Arbitration Act. Courts have accepted digitally signed settlements, virtual witness testimonies, and electronic records as evidence. This growing body of "ODR-enabled" is building a parallel jurisprudence on tech-integrated justice⁹.

⁸ DEPT OF JUST., GOVT OF INDIA, E-COURTS MISSION MODE PROJECT (PHASE III), <https://ecourts.gov.in/> (last visited Apr. 25, 2025).

⁹ Justice D.Y. Chandrachud, Court as a Service, Address at the Law & Technology Conference (Sept. 16, 2023), in SUP. CT. E-COMM. PUBL'NS.

Thus, ODR doesn't erode judicial power, but it informs and expands it. Rather than being sidelined, lawyers, judges, and judicial officers are being trained in ODR facilitation. National Judicial Academy has conducted training modules on virtual dispute resolution. Judicial officers are increasingly serving as neutrals or regulators in hybrid ODR forums. **SAMA's** partnership with SEBI to mediate investor grievances, ODR helps reduce overload on regulatory adjudicators. Judiciary plus AI plus Legal Services Authorities are bound to resolve lakhs of pending matters through real-time collaboration.

Charting the Way Forward: Building a Unified ODR Ecosystem within the Judiciary

To mainstream ODR within India's justice ecosystem, a robust regulatory and infrastructural roadmap is essential. This involves enacting a comprehensive legal framework that recognizes and standardizes ODR procedures across mediation, arbitration, and conciliation. With the enactment of the Mediation Act, 2023¹⁰ and the rollout of the e-Courts Phase III project, there is now a critical opportunity to formally embed ODR into India's judicial architecture. This requires the incorporation of clear ODR operational guidelines, accreditation standards for digital platforms and neutrals, robust data protection norms aligned with the Digital Personal Data Protection Act, 2023¹¹, and mechanisms to ensure the enforceability of outcomes delivered through virtual dispute resolution. Simultaneously, the state must invest in digital infrastructure such as multilingual portals, document management systems on the cloud, and AI-based case triaging tools to give it a level of inclusivity and extendability¹².

This is followed by building capacity by training in technology-facilitated conflict resolution for lawyers, judges, and paralegals to render this ODR platform seamless, efficient, and transparent according to the judiciary¹³.

Conclusion:

ODR as an Existential Upgrade, Not an Existential Threat ODR rests at the nexus of technology, accessibility, and justice, and is not a replacement for, but rather a necessary aid to India's judiciary. A disruptor and catalyst, ODR compels us to re-imagine how justice is made accessible, delivered, and felt. Its disruptive aspects shatter conventional hierarchies and spur

¹⁰ The Mediation Act, No. 3 of 2023, § 30, INDIA CODE (2023).

¹¹ The Digital Personal Data Protection Act, No. 9 of 2023, INDIA CODE (2023).

¹² Consumer Protection (E-Commerce) Rules, 2020, Gazette of India, pt. II, sec. 3(i) (July 23, 2020).

¹³ M/S Shakti Bhog Foods Ltd. v. Kola Shipping Ltd., (2009) 2 SCC 134 (India).

modernism, whereas its collaborative nature enhances the value of the goals of the judiciary towards efficiency, inclusivity, and expeditiousness in problem-solving. India needs to have a twofold strategy: embracing innovativeness coupled with accountability and enhancing digital infrastructure with maintaining procedural fairness. ODR can be the key to an agile, equitable, flexible, and above all, inclusive justice system for the future if it is implemented with care. ODR is not an existential danger but it is an existential boost to India's judiciary. ODR doesn't replace courts but re-designs where and how courts can function. Ease of Dispute Resolution enables India's Ease of Living and Ease of Doing Business vision.