
ONLINE DISPUTE RESOLUTION IN INTERNATIONAL COMMERCIAL CONFLICTS: A LEGAL ANALYSIS

Kritika Hegde, CHRIST (Deemed to be University)

ABSTRACT

Online Dispute Resolution (ODR) is a technology-driven process which employs online platforms to help parties negotiate, mediate, and arbitrate disputes without having to be present in person. Technological innovations through the use of chatbots or AI-driven bots, virtual assistants, and artificial intelligence are used to improve accessibility, speed, and cost effectiveness while streamlining the dispute resolution process, particularly in global business settings. Notwithstanding its many advantages, ODR has substantial legal and practical challenges pertaining to jurisdiction, relevant laws, inequalities in infrastructure, privacy, security, and platform dependability. In order to strengthen ODR's effectiveness and legitimacy in international trade, this study critically examines these issues, paying special attention to cross-border business conflicts. It also emphasises the need for standardised regulation, strong platform management, and improved digital infrastructure.

Keywords: Online Dispute Resolution (ODR), Benefits, Jurisdiction, Cross-Border, Enforceability, Legal Frameworks.

Introduction –

Online platforms are used in the technology-driven Online Dispute Resolution (ODR) system to settle disputes. This makes it possible for participants to interact, negotiate, mediate, or arbitrate without having to be there in person. ODR encompasses online mediation, arbitration, and negotiation—leveraging digital tools and often artificial intelligence to streamline processes, examine case precedents, and provide user-friendly case summaries, sometimes using chatbots and virtual assistants to guide parties about their rights and remedies. As a response to the digitisation of commerce, especially following the COVID-19 pandemic, ODR provides efficient, cost-effective alternatives to traditional litigation and is particularly valuable in international commerce, where disputes frequently span borders. Access, procedural fairness, and the enforcement of outcomes may all be impacted by the substantial legal and practical difficulties that ODR presents, including ambiguity surrounding jurisdiction and governing law, infrastructure constraints, and fears about privacy, security, and platform dependability. This research analyses the intricacies surrounding jurisdiction and technology in international commerce, emphasising the need for uniform regulation, strong governance of platforms, and improved digital infrastructure to ensure that ODR is compelling and legitimate in global commerce¹.

Statement of Problem –

The usage of Online Dispute Resolution (ODR) as a method of resolving international business conflicts has grown dramatically as a result of the quick digitisation of global trade. Although ODR has significant benefits in terms of effectiveness, cost savings, and accessibility, there are significant operational and legal obstacles that restrict its use as a dependable dispute resolution method in cross-border settings.

Jurisdictional indeterminacy is a major legal topic. Traditional arbitration provides a clear and defined structure for supervision and enforcement because it specifies both power over jurisdiction and relevance to applicable laws. In contrast to traditional arbitration, online dispute resolution (ODR) frequently lacks a distinct territorial connection to the arbitration process. The absence of a definitive link generates ambiguity around applicable legal structures, jurisdiction, and obligations to enforce awards under international treaties.

¹ Ethan Katsh , *ODR: A Look at History, A Few Thoughts About the Present and Some Speculation About the Future*

Furthermore, the technology-related issues relating to platform feasibility and to internet connectivity, heavily impair the feasibility of the entire ODR process. Poor connectivity also affects the ability of parties to access ODR platforms in less developed regions, and raises concerns about cybersecurity risks or technical failure leading to a loss of the procedural value.

Through both qualitatively and analytically, this study address the analysis of these 3 areas of concern - legal jurisdiction, imbalanced internet connectivity, and reliability of ODR platforms. In this regard, the study aims to explore the viability of legal arguments, as well as physical limitations in connectivity, to provide practical (albeit recommended) legal and technological reforms. This is based on the logic that effective cross-border ODR must incorporate both reliable and secure technological infrastructure as well as legal certainty to provide fairness, enforceability, and international credibility.

Research Questions –

1. How do existing legal frameworks address issues of jurisdiction in Online Dispute Resolution for international commercial disputes, and what gaps remain?
2. To what extent do internet and system availability impact the accessibility and fairness of ODR processes in cross-border commercial conflicts?
3. How have courts in India, the ICJ, and other major jurisdictions interpreted and enforced ODR agreements and outcomes in international commercial matters?
4. What legal and procedural reforms are necessary to enhance the effectiveness, enforceability, and equity of ODR mechanisms in international commercial disputes?

Significance of Research – Since COVID-19, when almost everything started moving online, and also since the time of globalisation, where commerce started taking place outside the limitations of borders, the chances of disputes occurring online and internationally have increased. Parties to such disputes are not always free or available to be present physically for their resolution. That is where Online Dispute Mechanism comes in. Here, parties can engage in resolving their disputes through electronic modes without having to be physically present. But this poses a few challenges along with its benefits and opportunities, which are being addressed in the paper through the objectives set forth. It highlights the positives of ODR and also addresses the systemic challenges or barriers that ODR poses. By the end of the paper,

suggestions are put forth as to how to make ODR a more appealing and strengthened option for people to choose.

Scope and Limitations of the Research –

Scope – This research examines ODR mechanisms for resolving cross-border commercial disputes, assessing their governing legal frameworks, procedural structures, and technological dimensions. It analyses the roles of international conventions (such as the New York Convention and UNCITRAL Technical Notes), treaties, and comparative domestic statutes pertaining to ODR in the context of international arbitration and mediation. The study considers the effectiveness, enforceability, accessibility, and equity of ODR, engaging with both opportunities and practical/technological challenges across jurisdictions. Analysis includes policy proposals and efforts by international organisations (ICC, UNCITRAL, OECD) to harmonise standards and promote best practices for ODR globally.

Limitation – the approach is analytical and doctrinal, relying on legal texts, case law, and secondary literature, but does not collect new empirical data from live ODR proceedings or direct user surveys. This research does not address granular, sector-specific distinctions (e.g., consumer vs. B2B disputes), nor does it account for all possible regional legal variations in depth. Infrastructural issues, disparities in digital literacy, and the effectiveness of local implementation are referenced but not comprehensively explored, due to limited empirical data. Conclusions may be affected by the rapidly evolving nature of both digital platforms and international commercial law.

Research Objectives –

1. To identify and analyse the procedural and technological challenges associated with implementing Online Dispute Resolution internationally.
2. To analyse the jurisdictional challenges related to applicable law, forum selection, and recognition of ODR decisions in multiple countries.
3. To explore the practical benefit and opportunities offered by ODR mechanisms for resolving cross-border commenced disputes.
4. To examine the existing legal frameworks governing ODR in cross-border commercial

disputes.

Research Methodology –

The research methodology being used for this research is analytical, qualitative, conceptual and doctrinal methodology. The method employed is making use of online resources, various journal articles, research paper, and also looking at precedents of relevant forums like the Supreme Court of India, different conventions, etc. and also looking at Supreme Court precedents of the other countries that will be looked into for the purpose of this research.

This research will be critically evaluating gaps, inconsistencies and effectiveness of the current frameworks that have been in use for resolving international commercial conflicts through Online Dispute Resolution. It will be focusing on the legal rules, statutory frameworks, and judicial precedents already decided in ODR cases. It also seeks to clarify and critically assess the underlying legal ODR principles in order to contribute to a more coherent theoretical foundation for its development. Principles like party autonomy, jurisdictional competence and due process.

Literature Review –

The development of Online Dispute resolution (ODR) has deep roots in the evolution of legal technology and Alternative Dispute Resolution (ADR) mechanisms. The early efforts toward pioneering ODR, including eBay's ODR program initiated in 1999 and the Uniform Domain-Name Dispute-resolution policy (UDRP) established by ICANN, showed that ODR can be used on the internet to resolve complex disputes between parties in separate locations. eBay's approach could be viewed as a model of a hybrid ODR system in that it combined automated processes with human facilitation, in cases where an automated solution was not possible. With rulings enforced through domain name reassignment, the UDRP's use of online arbitration to combat cybersquatting provided another example of the viability of ODR.

The scholarly research consistently highlights several key advantages of ODR, positioning it as a solution for cost-effectiveness, efficiency, and increased accessibility. ODR is particularly useful for low-value or international disputes that could not otherwise be resolved because it can drastically cut down on the time and costs involved in traditional litigation, according to legal specialists or experts like Ethan Katsh and others. Furthermore, ODR may make access

to justice more democratic by taking away geographical, financial and procedural formality barriers, while text-based asynchronous engagement may also support individuals with disabilities or those who are not comfortable in an in-person situation. Additionally, there are environmental benefits – less travel and paper use leave a less ecological imprint than traditional conflict settlement techniques, which is consistent with sustainability ideals. People who place a high value on environmental responsibility will find resonance in this component of ODR.

Nonetheless, the study also reveals significant barriers and limitations to the global uptake and use of ODR. Some key barriers are the lack of harmonised procedural rules, the uncertainty and admissibility of electronic evidence, and worries about data security and confidentiality. Existing digital literacy gaps and concerns about infrastructure make equal access and participation even more challenging in the area of cross-border disputes. The existing systems of regulation rely on a patchwork of international agreements, such as the New York Convention, or on the basic premise of contractual consent in order for decisions made through ODR to have the force of the law. yet, even this presents challenges for formalising consent, consumer protection, and interaction with national legal systems. Thus, to fully unlock the potential benefits of ODR in international disputes involving companies, recent research and policy proposals have identified the need for legal harmonisation, procedural clarity, technology infrastructure, and user trust in the system.

Scheme of Study/body of the paper –

In Online Dispute Resolution, there is internet use, which acts as a tool in resolving conflicts. It draws from the concepts of negotiation, mediation and arbitration. But the meaning or concept of ODR is not so restricted. Disputes that arose online may be called ODR, disputes that have occurred offline, but for reasons known to the parties, resort to online methods to resolve the same. There are two types of ODR systems, namely, hybrid system and standalone system. The hybrid system uses both humans and technology in deciding cases, whereas in a standalone system, it relies solely on software, no human involvement².

The first articles about ODR and a conference dedicated to the same was held in the early 1960s. initially, the system of ODR was viewed as something used to resolving those disputes

² Charlotte Austin, *An introduction to online dispute resolution (ODR), and its benefits and drawbacks*, Ministry of Business, Innovation and Employment, February 2017, New Zealand Government

that had mainly emerged online, so in this particular view a definition was also put out in 2004. The definition is as follows – “[ODR is] a dispute resolution process that operates mainly online. This encompasses both online versions of alternative dispute resolution and cybercourts, the former being dominant. In other words, ODR relates to negotiation, mediation, arbitration, and court proceedings, whose proceedings are conducted online”. Early instances of Online Dispute Resolution are evident in these 2 cases. One being eBay’s online mediation service, which was established in the year 1999 to resolve conflicts between buyers and sellers, and the “Uniform Domain-Naming Dispute-Resolution Policy (UDRP)” implemented by the Internet Corporation for Assigned Names and Numbers (ICANN) in the same year³.

The first instance related to eBay is as follows: founded in 1955, eBay launched its initial Online Dispute Resolution (ODR) program in 1999 to handle the increasing number of disputes between buyers and sellers. At first run by SquareTrade, the system was a simple online mediation in which parties ranked choices using a “blind bidding” procedure, filled out text boxes, and selected options from drop-down menus. Cases that remained unresolved were sent to a human mediator via email-based mediation. Because of this, eBay’s ODR is a hybrid model that combines human intervention with automated procedures. In order to handle offline manufacturer-supplier issues, the International Centre for Dispute Resolution implemented Cybersettle’s blind bidding program in 2010. Blind bidding is still utilised by organisations like Smartsettle and Cybersettle. Parties submit a range of bids in these situations, and if their offers overlap, conflicts are immediately settled; if not, online arbitration is used. Early strategies like these of hybrid mediation and blind bidding still have an effect on ODR models all over the world, even though eBay’s system has changed over time, proving the enduring value of its core principles⁴.

The second instance is with respect to the Uniform Domain-Naming Dispute-Resolution Policy (UDRP), which was established by ICANN in 1999 to address “cybersquatting” – the practice of registering domain names that are identical or similar to well-known trademarks in order to resell them to their legitimate owners – is another noteworthy early example of ODR. UDRP functions as an online arbitration process in which a panel of three arbitrators or a single arbitrator decides disputes. Domain name registrations may be cancelled, transferred, or modified in order to enforce the rulings. UDRP was one of the first organised processes for

³ *Id.*

⁴ Austin, *Supra* 1

settling online disputes, as it depended on human arbitrators rather than automatic technologies⁵.

Benefits and opportunities offered by ODR:

Use of ODR is very beneficial to the parties to a dispute and also reduces the burden of disputes on offline courts.

- 1. Cost-efficient** – To the parties – The cost-effectiveness of ODR in comparison to traditional dispute resolution is one of its primary benefits. ODR is frequently less expensive for the parties than seeking remedies in court or through offline mediation. This is due to the fact that ODR services sometimes have reduced costs and might not necessitate employing an attorney. ODR might be the only financially feasible choice for low-value claims or conflicts involving parties that are spread out geographically.

To the judiciary – ODR provides the legal system with substantial cost reductions as well. Online case transfer lowers fixed and operating costs, according to the Civil Justice Council. By handling claims from home, judges can reduce the cost of each case. Widespread use of ODR can lessen the demand for physical infrastructure and court buildings. Reducing the number of cases that make it to courts can further cut expenses by implementing tiered dispute resolution with online facilitation at the outset.

To the lawyers – ODR also helps lawyers, especially those who mediate disputes. Travel costs are decreased via online mediation, and as more mediations are done remotely, there is less need for physical office space and related expenses. In addition to reducing operating costs, this enables lawyers and mediators to handle more cases effectively⁶.

- 2. Saves time and is convenient** – ODR is generally thought to be a more effective way to resolve disputes than traditional judicial procedures, which are frequently cumbersome both domestically, like in New Zealand and internationally. Many ODR providers prioritise speedy settlements; for instance, the ODR M-S program of the American Arbitration Association settles disputes between manufacturers and suppliers

⁵ *Id.*

⁶ Austin, *Supra* 1

in an average of 54 days. Similar to this, New York City used CyberSettle's blind-bidding mechanism to resolve 40,000 personal injury cases, cutting the settlement time by 85% when compared to the traditional court system. Through decision support technologies that automate simpler activities, efficiently handle information, and optimise workflows, ODR also helps lawyers save time and increase productivity. ODR gives parties more flexibility and convenience. Asynchronous systems enable users to engage whenever it's convenient for them, eliminating the need to take time off work or finish the full procedure at once, whereas synchronous systems work in real time. ODR is one of the most effective and convenient substitutes for traditional litigation since it allows for quick, flexible, and remote access to dispute resolution⁷.

3. **Broader accessibility of justice** – By lowering obstacles including lack of funds, disability, distance, and discomfort with in-person contacts, ODR increases access to justice. Because of its decreased costs, people can exercise their rights and seek resolution for low-value conflicts that might not be worthwhile to pursue in traditional systems. ODR makes dispute resolution obtainable to a larger audience by lowering cost barriers. Conventional conflict resolution often gives preference to those who are well-spoken, educated, or are from privileged social groupings. Conversely, the online setting of ODR lessens these benefits, resulting in a more egalitarian procedure. For instance, “levelling the playing field” via text-based communication can be very helpful for those with autism spectrum disorder or those who struggle with in-person relationships. Furthermore, people who are not used to legal services find online environments less daunting, which fosters a more impartial and approachable environment. Unlike traditional courts with inflexible procedures, ODR platforms' flexible nature makes it easier for them to get used to the unique demands of various groups. This flexibility helps those with impairments/disabilities or language problems because ODR's flexible and less formal approach makes it easier for everyone to engage in dispute resolution⁸.
4. **Ecologically friendly** – Compared to conventional conflict resolution procedures, one of ODR's less well-known advantages is its positive environmental effects. ODR minimises the use of paper, cuts down on energy, and eliminates the need for travel by

⁷ *Id.*

⁸ Austin, *Supra* 1

using online courts or virtual mediation rooms. The cumulative effect across many disagreements is significant, even though the ecological impact of a single case may seem insignificant. Environmental factors are important to governments, businesses, and environmentally concerned customers, even though they might not be a deciding factor for most people when choosing a conflict resolution procedure. ODR therefore encourages more sustainable conflict resolution methods in addition to improving accessibility and efficiency⁹.

5. **Mitigates implicit bias** – Reducing the influence of unconscious bias in dispute resolution is a clear benefit of text-based ODR systems. Factors including gender, race, appearance, disability and socioeconomic position become less obvious when visual and auditory signals are eliminated. This increases the possibility that the arguments' content, rather than the participants' identities or behaviours, would determine the conclusion¹⁰.
6. **Unequal distribution of power** – ODR is especially important when there are power imbalances between the parties. The less powerful party may feel more confident in the online setting and be able to act more assertively than they could in conventional in-person interactions. It also provides a less threatening and impartial environment for conflict resolution. Since power disparities can occur in a variety of conflict situations, ODR's adaptability is a significant benefit since it allows its procedures to be customised to the particulars of the case and the imbalance in question¹¹.

Challenges associated with implementing ODR internationally:

Finding a balance between fairness and efficiency is a major procedural difficulty in ODR. Although digital platforms are intended to speed up the resolution of disputes, an overemphasis on speed may degrade the standard of justice. The necessity of providing parties with sufficient opportunities to present evidence and arguments has been emphasised by judicial practice, indicating that the means of communication is still crucial to maintaining due process in online proceedings. From a technical standpoint, ODR has trouble simulating the subtleties of in-person communication. Subtle indicators like tone, body language, and atmosphere are

⁹ *Id.*

¹⁰ *Id.*

¹¹ Austin, *Supra 1*

frequently used in negotiation and mediation, and they may be reduced in systems that rely solely on text or email. While real-time technologies like videoconferencing offer some partial solutions, their efficacy is contingent upon dependable infrastructure. Disparities in digital literacy, connectivity, and typing abilities can further skew involvement, especially in cross-border conflicts. The lack of consistent standards in communication tools among ODR platforms presents another difficulty. While some platforms just let sequential email exchanges, others enable private caucuses or real-time group conversations. Due process and the enforceability of verdicts are raised by variations in the admissibility of evidence in arbitration, which might range from email submissions to full videoconferencing. These discrepancies make it harder to forecast outcomes and make the broader global adoption of ODR more difficult¹².

Two major obstacles to the global application of ODR are confidentiality and trust. In contrast to ADR in physical settings, where secrecy is typically expected, digital contexts provide increased dangers because removal cannot be confirmed and online papers are easily duplicated. ODR providers must thus strike a balance between the conflicting demands of transparency and privacy because while sharing results can increase confidence, it also runs the risk of jeopardising confidentiality. The absence of clear and uniform confidentiality policies across platforms leads to procedural uncertainty and erodes trust in online communication. These problems show up in different ways for different ODR systems. While blind bidding is frequently used in automated negotiation to protect privacy, some providers retain the right to disclose results or make statistical data available. Although confidentiality policies are usually included in assisted negotiation, some providers retain the right to disclose results or make statistical data available. Although confidentiality policies are usually included in assisted negotiation, some providers actually reveal information like revoked trustmarks or outstanding B2C conflicts. Confidentiality is essential in mediation to promote candid conversation, but procedures differ on whether mediators can subsequently divulge material, and some providers do not make their policies clear. Similar difficulties arise in arbitration as confidentiality is anticipated but not often guaranteed. Uneven procedural standards are reflected in the continued uncertainty surrounding the publication of awards, the disclosure of ongoing processes, and the use of evidence across tribunals. The UDRP exemplifies an

¹² Thomas Schultz, Gabrielle Kaufmann-Kohler, Dirk Langer, Vincent Bonnet, *Online Dispute Resolution: The State of the Art and the Issues*; December 2001, University of Geneva

additional challenge. It does not fully address confidentiality measures, even though it mandates that all decisions be fully published in order to foster transparency. This discrepancy between privacy-focused and publication-focused systems highlights a larger procedural conundrum for ODR. International recognition, enforceability and use trust in ODR are all still at risk in the absence of standardised confidentiality rules¹³.

One major challenge to the global adoption of Online Dispute Resolution (ODR) is the inability of electronic records to provide sufficient evidence. Electronic communications – like emails, credit card transactions, and software transfers – can be modified in ways that make it difficult to identify the sender, the content, or the date, in contrast to conventional paper documents. These changes are hard to track down, making it easier for parties to deny messages. Unprotected emails and web-based interactions are, by nature, less secure, which exacerbates this vulnerability and raises doubts about the validity of electronic evidence in ODR proceedings. The procedural environment is made even more complex by risk allocation. Although the sender usually has the responsibility for data security, in reality, liability frequently moves to merchants and ODR providers through processes like charge-backs in credit card transactions. Smaller companies and ODR providers can suffer disproportionate risks because of their limited ability to establish strong data protection procedures, even while consumer protections are in place under laws like the EU Directive on Distance Contracts. As a result, accountability in cross-border conflicts is unclear due to the fragmentation of responsibilities for data integrity and fraud protection. Digital signatures, SSL-secured websites, encryption protocols (S/MIME, PGP), and record management systems with firewalls and backups are examples of technological precautions. Nevertheless, there is no unified global security framework and these solutions are not regularly implemented. With little usage of encrypted email or all-encompassing protection techniques, current ODR solutions mainly rely on secure websites. Since expectations for IT security are frequently higher than those for offline systems, the lack of a unified design not only increases the danger of data breaches but also erodes user confidence. A further layer of complication is added by the inability to adjust security standards for high-value versus low-value disputes, which impedes the creation of an ODR infrastructure that is widely recognised¹⁴.

Optimising the user interface is one of the biggest technological obstacles to the global

¹³ Shultz, *Supra* 11

¹⁴ Shultz, *Supra* 11

adoption of ODR. Effective ODR systems must guarantee efficiency by preventing communication delays, ensuring process updates are clear, and offering an easy-to-use interface. Although adaptable systems have the potential to improve inclusion by adapting to users' unique abilities or limitations, their usage in ODR is still restricted. These technologies also create privacy concerns because user profiling may lead to the gathering and improper use of personal information. The procedural challenges in guaranteeing widespread accessibility are further demonstrated by real-world issues, including unequal access to essential equipment (like videoconferencing tools) and issues brought on by time zone disparities. The absence of standardisation among ODR systems is another significant problem. In terms of information content, data presentation, communication protocols, and security measures, current solutions and prototypes use varied conventions. Interoperability is significantly limited by this fragmentation, which also restricts these systems to certain operational frameworks. One major obstacle to integrating ODR into diverse e-commerce settings and across numerous jurisdictions is the lack of widely recognised standards that were developed through provider and user engagement. Interoperability issues and record management concerns are equally significant. ODR systems are necessary for the smooth transfer of case data between platforms as well as for the safe storage of information. Even though programs like the European Commission's Joint Research Centre's ODR-XML project have made strides by making it possible to file, reply and export cases, these projects are still in their experimental stage. The potential for electronic recordings to serve as non-repudiation proof was demonstrated by earlier innovations like XFDL, but these solutions have not been widely used. Hence, the persistent lack of widely used interchange standards poses a significant challenge to the creation of safe and compatible ODR systems globally¹⁵.

Legal frameworks for cross-border ODR:

The legal foundation for Online Dispute Resolution in international commercial conflicts is now based mostly on the consent of the parties involved, as no mechanism is mandated by law. Dispute resolution clauses are typically used to express consent. These clauses can be included in post-dispute agreements that are available through ODR platforms or pre-dispute agreements that are integrated into merchant websites. Nonetheless, pre-dispute clauses are not common and are frequently hard to spot. There are regional differences: in the US, these clauses can be found in both B2B and B2C contracts, but in Europe, they are only found in B2B contracts

¹⁵ Shultz, *Supra* 11

unless they are unilaterally binding. This discrepancy demonstrates how consumer protection regulations influence whether or not ODR clauses are enforceable¹⁶.

These clauses differ significantly in their nature and enforceability. While many well-known e-commerce sites have arbitration or choice of court clauses, very few of them formally and legally bind parties to ODR. As an alternative to state adjudication, ODR is frequently provided as an optional or supplementary tool through institutional references or trustmark schemes. Some platforms even utilize a "non-binding arbitration" process which allows for concurrent sessions but does not have a legally binding effect. This is in keeping with a broad consensus that ODR is not intended to completely replace formal litigation, but instead function as an economic or customer service tool, particularly for lower-value disputes in cross-border transactions¹⁷.

The use of dispute resolution agreements also raises significant legal issues. As noted in Angela Swan's book, most B2C contracts are use terms that are incorporated by reference, and often without the consumer receiving explicit notice that the terms arise, and they almost never include negotiated terms. This could call into question whether consent, an essential element of enforceability, is achieved. Some ODR providers still tend to use a more traditional standard - written, faxed or similar agreements, others will procure clear consent through click-to-accept agreements, among other techniques. In addition, some terms identify the seat of arbitration or law that will govern the arbitration including cross-border enforcement issues. As these variations combine, they exhibit a patchwork legal system, where jurisdictional limitations and formalities, along with other consumer protection considerations, inform the viability of ODR as a process for cross-border business disputes¹⁸.

Concerns about jurisdiction, applicable legislation, enforcement of decisions, and the interaction between domestic and international legal tools are all part of the complex regulatory structure that governs Online Dispute Resolution (ODR) in international commercial conflicts. Finding the right forum or authority when parties come from various jurisdictions with distinct systems presents a major difficulty. This challenge is exacerbated in the setting of ODR, when disagreements take place between parties who are spread out geographically¹⁹.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Shultz, *Supra* 11

¹⁹ Prabhat Tomar, *ODR for Cross-Border Disputes: Opportunities & Challenges*, Vol. 4, Issue 1 of 2024, Indian

In order to alleviate these difficulties, international agreements and treaties are essential. The effectiveness of ODR results is increased by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), which makes it easier for arbitral awards to be recognised and enforced across countries. Likewise, jurisdictional complications are addressed and cross-border recognition of court rulings is supported by the Hague Convention on Choice of Court Agreements and the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters²⁰.

Domestic legal systems also have an impact on how ODR operates because they regulate things like consumer rights, data protection, digital signatures, and electronic contract formation. However, in cross-border ODR, variations in national laws can compromise predictability and uniformity. Even though systems like arbitration and mediation can result in legally binding agreements, procedural differences and public policy exclusions may nonetheless limit their enforceability across jurisdictions. International organisations such as the International Chamber of Commerce (ICC) and the United Nations Commission on International Trade Law (UNCITRAL) have created model laws, regulations, and guidelines to support international trade and bolster the legitimacy of ODR procedures in cross-border disputes in order to foster harmonisation and legal certainty²¹.

If we look at domestic examples of provisions of ODR, in India, the Information Technology Act of 2000, the Arbitration and Conciliation Act of 1996, and the Consumer Protection Act of 2019 serve as the main pillars of India's legislative framework for online dispute resolution, or ODR. While Section 65B of the Indian Evidence Act²² conforms to the admissibility of digital evidence in court proceedings, Sections 4 and 5 of the IT Act²³ give legal force to digital signatures and electronic agreements. The Supreme Court affirmed the legality of arbitration agreements reached via email under Section 7 of the Arbitration Act²⁴ in *Trimex International v. Vedanta Aluminium (2010)*, establishing judicial recognition of ODR. By encouraging institutional arbitration and requiring time-bound arbitral rulings, the 2019 revisions to the Arbitration Act enhanced this framework even further and brought India's dispute settlement

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²⁰ *Id.*

²¹ *Id.*

²² Section 65B of the Indian Evidence Act, 1872

²³ Sections 4 and 5 of the IT Act, 2000

²⁴ Section 7 of the Arbitration and Conciliation Act, 1996

procedures closer to international norms²⁵.

This framework has been extended into the commercial sector by the Consumer Protection Act of 2019 by mandating that e-commerce platforms use ODR procedures in accordance with Section 94(1)(g)²⁶. India still doesn't have a specific national ODR statute, despite the fact that these measures mark a substantial advancement. Rather, its structure is still dispersed throughout the Code of Civil Procedure (especially Section 89 CPC_, the IT Act, and the Arbitration Act. This fragmented legal foundation leads to uncertainties about rulings' enforcement, platform neutrality, procedural consistency, and data protection – all of which are crucial in the context of international commercial conflicts²⁷.

The General Data Protection Regulation (GDPR) of the European Union is a global standard that surpasses the data protection provisions of Section 43A of the IT Act²⁸. As a result, questions about confidentiality and the validity of ODR's decisions in delicate or valuable cases continue to exist. Therefore, the lack of comprehensive and standardised legal norms limits India's capacity to present ODR as a completely legitimate method of settling disputes involving international commerce²⁹.

Jurisdictional challenges in ODR decisions:

In international commercial disputes, the jurisdictional issue in Online Dispute Resolution (ODR) presents significant challenges. The jurisdiction of domain registration, the state in which the injury occurs, or the server's physical location is often linked to the determination of the applicable legislation. Fedotov, for example, contended that jurisdiction ought to follow the internet server because servers are physically located within a state's borders and are therefore governed by its laws. But as Johnson pointed out in his examination of "law and borders" in cyberspace, this strategy leads to contradictions because domain name registration does not always correspond with territorial realities. The difficulty of applying conventional private international law concepts to conflicts that emerge in a borderless digital environment

²⁵ Dhatri Singh, Dr. Kalpana Devi, *Online Dispute Resolution (Odr): A Paradigm Shift in Access to Justice*; International Journal for Multidisciplinary Research

²⁶ Section 7 of the Arbitration Act, Consumer Protection Act, 2019

²⁷ *Id.*

²⁸ Section 43A of the IT Act, 2000

²⁹ *Id.*

is highlighted by these conflicting criteria³⁰.

Another significant obstacle is choosing a forum. ODR procedures, as opposed to traditional arbitration carried out by organisations like the ICC, SIAC, or LCIA, frequently provide parties with great flexibility in selecting arbitrators and regulations. This can lead to disagreements on the legitimacy of the forum, notwithstanding its advantages. In *Grid Corporation of Orissa Ltd. v. AES Corporation*, for instance, the Indian Supreme Court supported technologically enabled dispute resolution procedures by highlighting the legitimacy of electronic communications and consultations in carrying out contractual commitments. Consumer protection law in the EU, however, limits party autonomy. For example, even if an ODR clause specifies a foreign location, consumers cannot be denied the rights provided by their home state under B2C contracts. This shows how difficult it is to balance required consumer protections with contractual freedom³¹.

The jurisdictional issue is further demonstrated by the acceptance and enforcement of ODR results. Currently, there is no equivalent enforcement mechanism for ODR decisions as there is for arbitral awards that are enforceable under the New York Convention. Because the panel ordered the transfer of the domain “tata.org” to the complainant, the *Tata Sons Ltd. v. Advanced Information Technology Association* case under the WIPO Uniform Domain Name Dispute Resolution Policy (UDRP) illustrates the effectiveness of administrative ODR awards. Nevertheless, this type of enforcement is restricted to particular situations, such as domain name disputes. National courts, which may refuse enforcement for grounds including public policy violations, a lack of procedural protections or doubts about the legality of electronic agreements, frequently decide on broader commercial ODR decisions³².

Scholars and practitioners have developed a number of methods, such as the “effects test” and the “Zippo sliding scale”, to assess jurisdiction in cyberspace in order to overcome these difficulties. However, unpredictability continues to be fostered by the absence of uniform regulations between jurisdictions. In order to clarify applicable law, forum authority and the recognition of ODR decisions in cross-border contexts, regional instruments like the Brussels and Rome Conventions, as well as international initiatives like the UNCITRAL Technical

³⁰ Mokhinur Bakhramova, *ODR (Online Dispute Resolution) System as a Modern Conflict Resolution: Necessity and Significance*, European Multidisciplinary Journal of Modern Science

³¹ *Id.*

³² *Id.*

Notes on ODR and the OECD guidelines on consumer protection in e-commerce, are deemed essential. If these tools are improved, they might offer the consistency required for ODR to become as legitimate as conventional arbitration³³.

Finding – This research is significant as it critically examines how Online Dispute Resolution (OD) helps handle the intricacies of global disputes. Traditional litigation is commonly criticised for being drawn out, costly, and complicated by juridical obstacles in the context of growing international trade. In contrast, ODR offers the benefits of cost-effectiveness, efficiency and accessibility; but its efficacy ultimately hinges on resolving issues with jurisdiction, applicable law, enforceability, and technological dependability. This study highlights the potential and limitations of ODR by looking at legislative frameworks, court decisions, and international initiatives.

Suggestions/Conclusion – The researcher suggests the following for better implementation of the ODR system:

- 1) Legal Frameworks should be complementary to each other. To ensure clarity on jurisdiction, applicable law, and cross-border enforcement of awards, international conventions should be amended or augmented with provisions particularly addressing ODR.
- 2) Reforms in the legislation of individual nations. In order to achieve procedural clarity and foster broader adoption, domestic laws must specifically acknowledge electronic contracts, digital evidence, and ODR agreements.
- 3) Enhancement of technological infrastructure. To make ODR more secure and inclusive, especially in nations with limited resources, governments and institutions should make investments in enhancing cybersecurity, system dependability, and internet accessibility.
- 4) Increased institutional support and cooperation. To establish uniform and consistent ODR standards and develop best practices worldwide, there needs to be greater collaboration between international institutions, including UNCITRAL, ICC, and the

³³ Bakhramova, *Supra* 24

WTO.

- 5) Concentration of inclusivity and accessibility. To ensure that ODR procedures continue to be genuinely inclusive, platforms should be made to support diverse languages, disabilities, and degrees of digital competence.

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