



## Online Dispute Resolution: The future of Justice

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### Abstract

A development in technology and e-commerce has given rise to various types of disputes emerging in the virtual world. Parties or individuals from different nations and territories sometimes get themselves involved in disputes or conflicts in various fields like culture, politics, society or commerce. A conflict may also arise between citizens of several other States. In such a case the courts have no jurisdiction over the individuals living in another territory. By creating software or an application of it as the third component and conducting this online, online dispute resolution (ODR) neutralizes the situation for both parties. This seems to be a workable and viable solution in such a case. It is essentially a process for resolving disputes using network-based information and communication technology (ICT). It serves as a replacement for the conventional, face-to-face dispute resolution procedures like arbitration, negotiation, or mediation.

**Keywords:** technology, e-commerce, online dispute resolution, arbitration, negotiation, mediation

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### I. INTRODUCTION

The procedure of ODR was an attempt to provide the citizens with an online dispute platform but the actual mediators were people who resolved the disputes and conflicts. ODR was a novel concept, but its application and concept were the same as the previous techniques to dispute settlement. Yet, the idea of online conflict resolution surpassed its original model and evolved into a system that resolves all types of community problems using technology or online apps. The ODR's role changed to fit into a framework including both dispute resolution and scope for future dispute avoidance. Everyone is aware of the virtual world of cyberspace, and the internet is the best recommended method for communication on a global scale. Contrary to the traditional methods of litigation, the ODR is the best choice in such a situation because it offers a workable solution. The required or estimated sum, which is pledged to be kept confidential, must be submitted online by the parties or individuals involved in this ODR process. The parties may amend or apply the independent norms and rules of the ODR service provider at the request of a panel of independent judges in order to resolve their disputes. Moreover, there is currently no established procedure or permanent system for tracking the number of users of the ODR. Similar to this, the system that provides an online mechanism for reporting conflicts does not keep any records or lists.

### ORIGIN AND EVALUATION

Although the Internet was created in 1969, a requirement for ODR did not materialize until the early 1990s since commercial Internet activity was not permitted until 1992. After the National Science Foundation lifted the embargo, there was a surge in online disagreements and no organizations for structured dispute resolution specifically focused on ODR. ODR hadn't even been thought of yet, in fact. The National Center for Automated Information Research sponsored an ODR conference in 1996 due to the growing need for a sustained ODR due to conflicts resulting from online activity. This meeting resulted in the funding of three experimental ODR initiatives. Since 1999, a large number of ODR service providers, including Modria, Cybersettle, ClickNsettle.com, SmartSettle, Legal Referee, and BBB Online, have actively settled conflicts involving both governmental and commercial enterprises in the public and private spheres. Organizations in India as Perry4Law, NIXI and TLCEODRI have also been promoting and leading ODR in India.

### PROCEDURE OF THE ODR

The manner of ODR involves the e-files, in which events may also use encryption, electric powered signatures, to make certain protection and protect integrity of all of the files and charge transactions details. Generally, the people or events of the case, decide on an established and clean manner of dispute decision. This

manner is precise and easy as well, establishments like WIPO, ICC and lots of others have installed provisions of online dispute decisions through mediation and different methods.

If the respondent has the same opinion to take the component within the process, he has to post an in depth set of his replies. Whereas, the complainant, who documents the criticism, is trying to find remedies, to get compensation. The dispute decision process, may also or might not encompass oral listening to thru video conferencing or telephonic conversation. There can be a possibility, in which a computerized software program resolves the dispute and there's no want of appointing a 3rd party.

The maximum vital additives required for utility of the ODR are life of superior technology, pleasant interface, skilled experts and above all, the preservation of privateness and safety of facts of the disputants. With the concepts of infrastructure, affordability, accessibility, expertise, consideration and convenience, it attempts to draw extra customers and offerings over time. Unlike the alternative ADR processes, ODR sought to present, as a device to 'actual international setting' with extra efficiency.

## **SHADOW OF LAW**

Apart from diverse assets of global arbitration regulation, which include the European Convention on International Commercial Arbitration 1961 and Inter-American Convention on International Commercial 1975 supplemented with the aid of using Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards 1979, EU Directive on digital commerce, institutional policies and personal contractual agreements, at global level, there are major assets.

1. New York Convention at the Recognition and Enforcement of Foreign Arbitral Awards, 1958 and
2. UNCITRAL Model Law on International Commercial Arbitration and Conciliation Rules.

At home tiers in ancient times, while there have been no courts of regulation in India disputes have been resolved with the aid of an elder member of the family, Sarpanch of Village or with the aid of using Kulas, Srenis, Phugas or Parishadas. During the British Empire, diverse legal guidelines have been enacted to sell arbitration which include Madras Presidency Regulation Act, Bombay Presidency Regulation Act, and The Charter Act 1933. But the historic step changed into focused on enactment of Indian Arbitration Act 1940, which changed into entirely primarily based totally upon English Arbitration Act. It was treated especially by home arbitration.

1. **The Constitution of India** - After the independence of India, a constitution was passed, Article 21 of which states that no person shall be deprived of his life or personal liberty except in accordance with law. And the proceedings must be "reasonable, fair and just". In a landmark case, the Supreme Court of India ruled that the right to a speedy trial is part of the right to life or personal liberty.
2. **The Code of Civil Procedure, 1908** - By Civil Procedure Code Amendment Act 1999, Section 89 (Settlement of Dispute out of doors Court) and Rules 1A to 1C, Order 10 (Direction of Court to choose anyone mode of ADR after first listening to of suit) have been inserted which has made it incumbent upon courts wherein there exists factors of agreement to name upon the events at their choice to agree for one or different ADR methods
3. **Arbitration and Conciliation Act, 1996** - The Act was issued based on the UNCITRAL Model Law on International Commercial Arbitration (1985) and Arbitration Rules (1980) and its important feature is to harmonize the concept of arbitration and conciliation in different legal systems of the world and make it universally applicable. . . The main purpose of the law is to encourage the resolution of disputes through mediation at the domestic and international level. It allows for mediation, conciliation or other procedures to promote dispute resolution during the arbitration. The law also gives the agreement reached between the parties as a result of judicial proceedings the status of judgment according to section 73 of this law. Recently, the Arbitration and Conciliation Act 2015 legally recognized arbitration concluded by electronic communication, which is positive. initiative to effectively promote online dispute resolution.
4. **Information and Technology Act, 2000** - the concepts of writing and signing have recently been significantly modernized to increase the certainty of concluding online contracts and thus facilitate electronic commerce. The most important step towards this goal was made at the international level with the adoption of the UNCITRAL Model Law on Electronic Commerce in 1996. Then, in 2001, the UNCITRAL Model Law on Electronic Signatures was adopted. Those legislative changes caused the "worldwide reform of the writing requirement". The Information and Technology Act, 2000, based on the UNCITRAL Model Law on Electronic Commerce, was enacted in India to facilitate electronic commerce and provide legal recognition for electronic transactions. Sections 4, 5, 10-A, 11-15 of the Act reflect the legal recognition of electronic documents and signatures.
5. **Indian Evidence Act, 1872** - If the contracts made through electronic communication are not admissible as evidence by the courts, for this purpose, Sections 65-A and 65-B were inserted, which made electronic

evidence admissible in Courts as a second copy, provided that the requirements specified in Section 65-B are satisfied.

#### **SUPPORT FROM INDIAN LEGAL SYSTEM**

The Indian legal framework supports the online dispute resolution process through Section 89 of the Code of Civil Procedure, 1908, which promotes inter-party dispute resolution and its alternative modes. Section 5 of the Information Technology Act 2000 allows legal recognition of the use of electronic signatures and electronic documents.

Rules 1A to 1C of Order 10 were added to enable the courts to agree to one or another alternative dispute resolution (ADR) solution at the request of the parties. According to § 7 (3) of the Arbitration Act, the agreement must be concluded in writing, but if both parties agree to settle the arbitration dispute by the ODR service provider, it is considered valid in court.

**State of Maharashtra Vs. By Dr. Praful B. Desai**, the Supreme Court has said that video conferencing is an acceptable method and source for recording evidence in witnesses. The Supreme Court in the case of **Grid Corporation of Orissa Ltd. vs. AES Corporation** has found that electronic means and methods such as video conferencing etc. can be achieved through successful and effective consultation. then both parties cannot be required to sit together, in the same place, unless it may be prescribed by law or by a decision between the parties.

Thus, both the legal framework and Indian Supreme Court precedents support the use of online communities, i.e., dispute resolution technology. In fact, they encourage the use of online dispute resolution (ODR) processes in such cases. Thus, it is a more accessible and time-saving resource compared to traditional processing methods

#### **SCOPE OF ODR**

India has limited its support for an online dispute resolution process. In e-commerce, e-commerce and e-commerce disputes, India is gradually adopting an online dispute resolution facility. Since the beginning of the 21st century, the usability and scope of the Internet has grown rapidly as a result of rapid development. ODR has a long-term impact on dispute resolution when it is necessary to meet quickly and efficiently.

Several new disciplines such as labor law and telecommunications law are being added to the online dispute resolution process to expand its reach. The online dispute resolution process promises to make the out-of-court dispute resolution process faster, more efficient and more cost-effective. In order to fully analyze the legal basis of the cases, it is mandatory to refer to the rules of alternative dispute resolution methods. However, if any non-binding online dispute resolution agreement is successful, it will result in a successful binding agreement between the parties that is enforceable in court.

For ODR mechanisms, technology plays a key role in enhancing their effectiveness. Each ODR may use a different technology system for contention detection and flow analysis. Therefore, ODR is also recognized by international organizations. The European Union (EU) focuses on alternative dispute resolution methods. The European Commission has regulated its online dispute resolution forum, which has been operating since 2016

These new online alternative dispute resolution tools have gained popularity, and support for future online dispute resolution in for example the US, Europe and international guidelines is remarkably exceptional. Thus, ODR will soon become an arbitration procedure for the whole world and a necessity for every party in dispute. As far as India is concerned, the growth of technology and trends in arbitration has grown rapidly in recent years.

## **II. CONCLUSION**

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