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## ODR IN INDIA: THE FUTURE OF JUSTICE DELIVERY

*-Priyansh Tyagi*

With Over 5 Crore Cases Pending across various courts in India<sup>1</sup>, the traditional justice system is stretched far beyond its limits, leaving lakhs to face delayed justice. Although the supreme Court in *Hussainara Khatoon v. State of Bihar*<sup>2</sup> unequivocally declared Right to speedy trial as part of fundamental Rights, the alarming backlog of cases undermines this right, effectively turning justice into a prolonged and often inaccessible process. Against this backdrop, Online Dispute Resolution (ODR) presents a game changing alternative i.e utilizing technology to ensure faster, more accessible, and efficient conflict settlement outside the courtroom. United nations commission on international trade law (UNCITRAL) defines ODR as a **“mechanism for resolving disputes through the use of electronic communications and other information and communication technology”**<sup>3</sup> Before Understanding ODR, it is important to examine its foundation – Alternative Dispute Resolution. As the name itself suggests, it is the term which is used to describe different ways by which people can solve their disputes outside the Court. It is non- adversarial method of dispute resolution which delivers faster outcomes at a fraction of the cost. The most popular forms of ADR include Arbitration, Mediation, Conciliation, Negotiation. Although ADR has helped ease the pressure on courts, it still relies on in-person meetings. Travel costs, scheduling conflicts and distance make it less accessible, pushing the need for a more digital-friendly solution. And this is where the need of ODR was Felt. With the Rapid advancement of technology, Dispute Resolution mechanisms have undergone a rapid and significant change. Online Dispute Relation (ODR) represents the integration of technology with traditional Alternative Dispute Resolution Methods. Ethan Katsh and Janet

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<sup>1</sup> NJDG, National Judicial Data Grid, available at: <https://njdg.ecourts.gov.in>

<sup>2</sup> *Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar, Patna, Supreme Court, 9 March, 1979.*

<sup>3</sup> United Nations Commission on International Trade Law, ‘Technical Notes on Online Dispute Resolution’ available at: [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382\\_english\\_technical\\_notes\\_on\\_odr.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf)

Rifkin, who wrote first book on ODR described the technology as '*fourth party*' in dispute resolution.

Unlike traditional ADR, ODR lets parties file complaints, share documents and attend hearings – All Online, from anywhere in the world. The effectiveness of ODR is further strengthened by the growing support it has received from Indian judiciary and policy making bodies. In the case of *Grid Corporation of Orissa Ltd. v. AES Corporation*<sup>4</sup>, the court held that where consultation can be effectively carried out through electronic communication and remote conferencing, there is no requirement for the parties to be physically present in the same location. Furthermore, in the case of *Trimex International Ltd vs Vedanta Aluminium Ltd*<sup>5</sup>, the Supreme Court upheld the validity of contract that was created by E- Mail. Also, a comprehensive policy plan, "*Designing the Future of Dispute Resolution: The ODR Policy Plan for India*,"<sup>6</sup> was released by NITI Aayog in the year 2021 to integrate ODR into the Indian legal system, advocating for its use to reduce court burdens. Taken together, these court rulings and policy moves shows that ODR in India is no longer a nascent concept but an institutionally endorsed mechanism, supported by both Judicial reasoning and policy vision.

## FORMS OF ODR

ODR Builds upon the foundation of ADR, integrating technology into its established forms. Accordingly, its primary forms include negotiation, arbitration, mediation, conciliation conducted online.

- 1) *Online Negotiation*: It can be defined as most informal form of ODR where parties communicate directly through emails, chat platforms, or dedicated portals to resolve their dispute. It allows flexibility and privacy, enabling parties to reach a mutually acceptable solution without any third party intervention.

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<sup>4</sup> *Grid Corporation Of Orissa Ltd. vs Aes Corporation And Ors.*, Supreme Court, 1 October, 2002

<sup>5</sup> *Trimex International Fze Limited, Dubai Vs. Vedanta Aluminium Ltd., India*, Supreme Court, 22 January, 2010.

<sup>6</sup> NITI Aayog, 'Designing the Future of Dispute Resolution: The ODR Policy Plan for India' (2021) available at: <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>

- 2) *Online Arbitration*: It is a more formal process where an arbitrator hears both the sides virtually and delivers a decision which is binding on both the parties. Hearings, submission of evidence and proceedings take place digitally and the Arbitral Award is enforceable under Section 36 of Arbitration and Conciliation Act, 1996..
- 3) *Online Mediation*: In Online Mediation, there is a neutral third party (known as Mediator), who facilitates discussion between the parties through video conferencing or online meeting platforms. The mediator does not impose a decision but helps the parties communicate and arrive at a voluntary settlement.
- 4) *Online Conciliation*: Online Conciliation involves a neutral third party (known as Conciliator) who actively assists the parties in reaching a settlement through online platforms. Unlike mediator, the conciliator may propose terms of settlement, helping parties bridge the gaps and can guide them towards a mutually acceptable resolution.

## **ADVANTAGES OF ODR**

The growing adoption of these forms of ODR can be attributed to the significant advantages they offer over traditional dispute resolution mechanisms. Some of them are:

- *Accessibility*: ODR removes geographical barriers by allowing parties to participate from anywhere with an internet connection. This is very important in a vast country like India, where distance often limits access to justice.
- *Cost-Effectiveness*: By eliminating travelling charges, venue costs, and prolonged procedural formalities, ODR significantly reduces litigation expenses of the parties.
- *Speed and Efficiency*: ODR streamlines procedures through digital communication and quicker scheduling of hearings. Disputes that may take years in courts can often be resolved within weeks. This ensures timely justice, which is central to the rule of law.

## **CHALLENGES OF ODR**

- *Digital Divide:* A considerable portion of India's population still lacks access to stable internet and digital devices. People living in Rural areas may find it difficult to participate effectively.
- *Limited Public Awareness and Confidence in ODR:* One of the major challenges facing ODR in India is the limited awareness and trust among the general public. Many individuals are unfamiliar with the concept of ODR and may feel reluctant to rely on it.
- *Data Privacy and Cybersecurity issues:* ODR proceedings involve sensitive personal and professional information. Without strong cybersecurity measures, there is a risk of data breaches that erodes the public trust.
- *Lack of a Dedicated Statutory Framework for ODR:* India does not yet have a separate law that specifically regulates Online Dispute Resolution (ODR).

## **SOLUTIONS TO OVERCOME THESE CHALLENGES**

- *Improve Digital Access:* To make ODR truly inclusive, internet connectivity must reach rural and underserved areas. Affordable devices and better infrastructure should be available
- *Promote Digital Awareness:* People should be educated about how ODR platforms work and how they can use them effectively.
- *Ensure Data Security:* Strong cybersecurity measures and clear data protection rules are essential to maintain confidentiality.
- *Clear Legal Framework:* Comprehensive laws, rules and regulations should be made to govern ODR in India.

In conclusion, Online Dispute Resolution is not just a technological innovation but a practical response to the growing demands of justice in a digital age. It offers a faster, more accessible, and cost-effective alternative to traditional mechanisms, especially in countries burdened with judicial delays. However, for ODR to reach its full potential, challenges such as digital access, awareness, and data security must be addressed. With the right policy support and infrastructure, ODR can play a transformative role in making justice more inclusive and efficient in India.