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The Constitutional Limits of Digital Justice: Evaluating ODR Through Articles 14 and 21

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The move towards ODR systems comes from India at a time when it is desperately trying to balance against a huge judicial crisis. As has been well documented in previous times, the conventional legal system in India is weighed down by over 50 million cases that have been pending for decades, with a typical dispute taking three years or more before its resolution. This was the setting in which the NITI Aayog issued its policy document of 2021, calling for the integration of advanced technology within domestic arbitration and mediation processes. However, when government institutions and corporations begin moving from using ODR as a voluntary process to a process that is made mandatory for seeking any relief, it becomes obvious that a constitutional conflict arises, given the fact that by insisting on the use of ODR for all citizens, regardless of the inequality of the society, digital apartheid may be created.

Substantive Equality vs. The Digital Divide

The constitutional position on technological public infrastructure in India is founded on the protections afforded by Articles 14, 21, and 39A. Article 14 ensures equality before the law, protecting citizens from arbitrary laws and recognizing human fallacies. Constitutional jurisprudence permits classification based on Article 14, but it requires the fulfilment of two conditions: reasonable classification and a rational connection between the classification and the objective of the legislation. The need for Mandatory ODR is thus not fulfilled here. Based on Supreme Court decisions, including *Maneka Gandhi v. Union of India* (1978), laws have to take care of under-inclusiveness affecting the vulnerable. Distinctions amongst distinct groups in the population have to be taken into account while doing equal classification; therefore, the digital illiteracy of rural litigants cannot be compared with that of urban citizens. The reality of India's

digital scenario makes clear just how big this gap really is. About 66 percent of Indians who reside in urban areas can be regarded as “digital haves,” but actual penetration of the Internet in rural households becomes zero, varying from 24% to 37%. This structural disparity is further compounded by huge gender divides, with only 25% of Indian women actively using the internet, while for men the figure is at 49%. Even if the overall level of internet access in India manages to inch close to 60% in 2026, mere access does not guarantee digital literacy. For millions of people, it becomes a difficult feat to navigate a digital interface, submit court documents, and participate in an online hearing without help.

Statutory Violations and the Amar Jain Mandate

Such a technological disadvantage is not merely a failure in policy making but amounts to a statutory infringement as well. Under Section 18 of the Arbitration and Conciliation (A&C) Act of 1996, there exists an unambiguous principle of equality of treatment and giving a full and fair chance. The refusal to allow participation in such a situation, wherein one party to arbitration may face problems with a continuous internet connection, low bandwidth, and inability to navigate a complicated website, infringes upon the principle of natural justice mentioned under Section 18. Thus, an arbitral award made in such a case can easily be nullified under Section 34 of the A&C Act as patent illegality. Such myopia has been continually pointed out by the judiciary. The constitutional hazards of digital exclusion have been strongly emphasised in the 2020 Right to Education judgement by the Delhi High Court, where the court castigated the state for perpetuating an educational discrimination through the mode of delivery alone. The role of the state vis-à-vis the digital platform is much more clearly demarcated in the cases of *Amar Jain v. Union of India* and *Pragya Prasun v. Union of India* (2025 INSC 599) in 2025 from the Supreme Court of India. From these two landmark judgments, the Supreme Court has included digital inclusion under Article 21 of the Constitution. This means that it becomes the responsibility of the state to offer electronic governance to its citizens. As per the principles laid down by the case of *Amar Jain*, access to the courts cannot be conditioned upon the economic capacity of the individual to buy a mobile or data pack. The ODR framework being used should be made keeping in mind the offline population, which is around 40% to 50% of the total population of the nation, and a strict digital rule would become unconstitutional here as a barrier to access. Even when it was decided by the Bombay High Court in 2025 that the ODR terms and

conditions agreed by both commercial parties were contractually binding.

A Hybrid Way Forward: The Proposed ODR Act 2026

In order to find a way to ensure the efficiency of technology in harmony with constitutional equity, India will have to change its strategy from the imposition of an absolute virtual mandate to a hybrid model backed by the state. There are many global examples to demonstrate this idea and scale it down. For instance, the hybrid mechanism of Singapore disputes has achieved a success rate of 95%, connecting the e-filing to a supportive infrastructure of the country. Moreover, the EU's ODR Directive provides a high-standard solution for digital inclusiveness, making use of multilingual platforms and physical assistance centres.

As far as internal processes go, the Indian system has to be supported by legislation, namely:

- Kiosks in Panchayats: The state, in collaboration with NITI Aayog, needs to establish physical ODR kiosks in the Panchayats with baseline technology, consistent connectivity and human facilitators.
- Opt-out Statutory Clauses: The parties have to be given a fundamental right to opt out from any virtual process at the onset of any connectivity problem or digital illiteracy leading to an unfair trial.
- Device and Connectivity Subsidies: For mitigating the huge disparity in terms of digital skills between men and women, and the rural-urban divide, there is an urgent need for the state to provide targeted subsidies in terms of devices and connectivity.
- Integration of Vernacular AI Translation: There should be integration of Vernacular Artificial Intelligence translation along with voice-assisted software into the platforms, with an emphasis on literacy programs such as PMGDISHA 2.0 (aiming at training of 10 crores of rural citizens by 2028).

As the legal-tech framework in India heads towards 2030, empirical studies are required to measure ongoing problems of exclusion in ODR, observe algorithmic bias, and gauge the cost of hybrid systems. Technology must empower justice rather than limit its access. When the government mandates digital public infrastructure without ensuring basic physical protection, it is no longer dealing with the problem of judicial backlog but rather creating a constitutional access problem.