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ONLINE DISPUTE RESOLUTION [ODR] IN INDIA: QUICK ACCESS TO THE LEGAL SYSTEM

ABSTRACT:

The practice of settling conflicts using digital platforms and technology, frequently without the necessity for in-person interaction, is known as online dispute resolution, or ODR. ODR facilitates negotiation, mediation, arbitration, or adjudication between parties involved in a dispute by using various online tools and techniques, including chatbots, emails, video conferencing, and specialized platforms. In social media interactions, online marketplaces, e-commerce transactions, and other internet-based activities, online dispute resolution (ODR) can be beneficial in settling disagreements. Compared to traditional conflict resolution techniques, it has several benefits, such as affordability, efficiency, accessibility, and convenience.

ODR is an innovative method of dispute resolution that uses digital platforms and technology to speed up negotiation, mediation, arbitration, and adjudication. Overcoming geographic barriers, allows parties to participate in dispute resolution procedures free from the limitations imposed by physical proximity. This accessibility democratizes justice, increasing its inclusivity and empowering both people and corporations.

Online Dispute Resolution (ODR) or e-ADR has emerged as one of the most promising methods for resolving conflicts that not only follow the established social distance standards but also enable the necessary flexibility. This is due to the advancement of technology in the field of dispute resolution. Furthermore, within the past ten years, the arbitration process has seamlessly transitioned to work with technology. But the question around ODR is: Could this be the future of dispute resolution? This essay makes an effort to consider whether online dispute resolution is practical in the post-Covid. Furthermore, **ODR** is a catalyst for systemic change rather than just a technical fix. It creates an atmosphere of cooperation, stimulates

original problem-solving, and supports just and equitable results. ODR has the potential to transform the legal system and bring in a new age of flexible, effective, and accessible dispute resolution by embracing digital innovation.

(KEYWORD: ODR, Arbitration, Adjudication, Negotiation)

INTRODUCTION

Technology has altered interpersonal interactions, and it has also altered the manner in which disagreements are settled. A new concept in conflict resolution known as "Online Dispute Resolution" has evolved as a result of technical breakthroughs, drastically altering the landscape in a matter of months. The COVID-19 pandemic has led to a notable rise in non-physical activities like electronic filings and virtual hearings. The rise of ODR and the internet in the late 1990s went hand in hand. E-commerce companies like eBay first used online dispute resolution to build consumer trust by quickly and effectively resolving conflicts. Through the eBay platform, users might file a complaint and start the online dispute resolution procedure¹. An online mediation procedure would start if the settlement effort is unsuccessful. The platform's functionality includes problem diagnosis and automatic negotiation, with mediation or arbitration as the next step. This idea, which has now developed into more advanced forms that are widely used by both governments and commercial companies, is often known as ODR (Online Dispute Resolution). ODR was later invented by several nations, including the US, Canada, Singapore, and the Netherlands

India's legal system has a long history of getting bogged down, with millions of cases lingering in the nation's many courts. The COVID-19 epidemic has exacerbated the current state of affairs. The Supreme Court has permitted case filing and hearings to be conducted online. However, it is impossible to overlook the fact that the court is already severely overworked and overwhelmed with cases. To relieve the strain on the nation's courts, a quick and creative fix is needed. Online Dispute Resolution, or ODR, may be the solution to this threat. The method of resolving conflicts outside of court by fusing technology and alternative dispute resolution ("ADR") processes is known as online dispute resolution or ODR.

Online dispute resolution mostly entails the application of mediation, arbitration, or negotiation techniques to resolve conflicts. The following are the most often used ODR techniques:

¹ Sehgal, Diganth Raj. "Online Dispute Resolution: An Analysis." *iPleaders*, 21 Nov. 2021, <https://blog.ipleaders.in/online-dispute-resolution-an-analysis/>.

- In synchronous online dispute resolution, parties interact with one another in real-time via a variety of video conferencing platforms.
- The asynchronous ODR approach uses email or other similar programs for communication. This type of communication is not real-time.
- It appears that the most advantageous method of resolving disputes is online mediation. One way to think about this is as a hybrid of synchronous and asynchronous ODR. This is how most ODR platforms come to a decision. Sending emails to the parties is typically the first step in an online mediation. The email would provide a summary of the proceedings.²

NEED OF ODR IN INDIA

India has experienced a sharp increase in the use of trustworthy measures, as evidenced by the adoption of alternative conflict resolution procedures in place of traditional courts. These procedures have aided in the establishment of Lok Adalat, Arbitration, Conciliation, and Mediation. The rising volume of cases submitted every day is the main underlying problem, not the appropriate way to access justice. As a result, the court's workload is lessened, justice is served more quickly, and the public pays less for it.

ADR includes physical proceedings, which are frequently prohibited by geographic restrictions. During the COVID-19 pandemic, these restrictions have taken on an unusual character. And to get out of this predicament, we must adjust and make use of a possibly helpful alternative known as online conflict settlement. It gives us the option to resolve conflicts online through negotiation, arbitration, or mediation while utilizing cutting-edge tools like online document distribution and video conferencing.

In India, online dispute resolution is becoming more popular and can be less expensive and time-consuming. It would also help conflicts that are not heard for a variety of reasons, such as time or money constraints; in these cases, the expedient and less time-consuming process of alternative dispute resolution (ODR) can be used. ODR, one of the key components of an economic recovery, is used to settle issues of lending, property, credit, commerce, and retail during the COVID-19 pandemic.

WHY ODR?

² Online Dispute Resolution in India | VIA Mediation Centre.
<https://viamediationcentre.org/readnews/OTAz/Online-Dispute-Resolution-in-India>. Accessed 25 Feb. 2024.

As we've seen, India's legal system has expanded quickly, moving away from traditional courts and toward alternative conflict resolution procedures that have aided in the establishment of Lok Adalat, Arbitration, Conciliation, Mediation, and Judicial Settlement. The main underlying problem is the daily growth in the number of cases filed, not the appropriate way to access justice. This lessens the workload for the court while simultaneously improving the administration of justice and lowering costs for the general public. Online dispute settlement is becoming more popular in India and can be less expensive and time-consuming. Disputes that are not resolved for a variety of reasons, such as financial or scheduling constraints, might also benefit from it. In these cases, alternative dispute resolution (ODR) is a cost-effective and time-efficient option. During the COVID-19 pandemic, one of the key components of the economic recovery is the use of ODR to settle disputes pertaining to loans, real estate, credit, commerce, and retail.

There was overarching consensus in support of this initiative. In fact, during one of these deliberations, Justice DY Chandrachud, who heads the e-Committee of the Supreme Court, observed:

There is a collision of highly substantial, not very tiny, but significant issues that don't have to go to court within the vast array of litigation that appears before every court. ODR may handle situations like these, as well as instances involving personal injury, motor vehicle accidents, and check bouncing. The NITI Aayog ODR endeavour is praiseworthy, and the draft report has been painstakingly put together. This is a novel examination of the potential applications of technology to conflict resolution in India. The CEO of NITI Aayog, the Secretary of Legal Affairs, the Secretary of Justice, the Secretary of the Ministry of Micro, Small, and Medium Enterprises, the Secretary of Consumer Affairs, the Secretary of the Department for Promotion of Industry and Internal Trade, and the Secretary of Corporate Affairs were among the constituent members of the Committee. The study is the result of a cooperative and inclusive activity, and it ought to serve as the foundation for a long-term strategy to establish India as the world leader in the widespread use of ODR. It lays out the plan for growing out ODR as the first point of contact for averting disputes, containing them, and, when necessary, resolving them.³

³ *NITI Aayog Pushes for Online Dispute Resolution for Speedy Access to Justice.*

<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1776202>. Accessed 28 Feb. 2024.

PRIVATE AND CONFIDENTIAL INFORMATION CONCERNS

Concerns over ODR's anonymity and privacy have been voiced a lot in the last few days. Is there any legal risk associated with the notes taken during online sessions? Since e-communications are stored in the cloud and are essentially kept for an extended period of time, they may raise questions about intellectual property rights, fundamental rights, or other legal rights and privileges. They frequently have security lapses. When it comes to security breaches, every intermediary that wants to remain in the market today needs to ensure that there are none. Furthermore, the expenses linked with implementing encryption and associated security software are just too high for any individual to bear. While it is feasible to look at the recent COVID-19 epidemic and see that such facilities may be offered at a lower cost, it is unlikely that everyone will be able to afford them in the current internet. These security foundations need to be as good as those found in email correspondence, WhatsApp, Facebook, and other popular apps that abide with the law as of right now. The fact that there are now so few security breach examples accessible pertaining to ODR should be emphasized. This might enable us to separate current ODR approaches into main categories, such a completely automated system for making decisions or a system that combines online chat, phone calls, and other forms of contact.⁴

CONCLUSION

The Ministry of Law & Justice, Government of India, has implemented an e-filing method for High Courts and District Courts in India. This procedure allows for online document updates, which is undoubtedly a highly modern approach. A few examples of how online or e-courts and e-governance have developed are the interoperable system between a police agency and courts for the lack of digital data, police stations with computers, ongoing training programs and the hiring of tech-savvy individuals as employees (both in the public and private sectors), e-filing to capture data at the source, video conferencing, open courts, live streaming, e-payments, e-challans, virtual courts, etc. Undoubtedly, ODR's future in India is closely related to and dependent upon these little advancements in the country's established legal systems.

ODR has undoubtedly developed into a dynamic area of dispute resolution with a cordial relationship to the legal system. For its long-term objectives, it is heavily reliant on the legal

⁴ *Articles – Manupatra*. <https://articles.manupatra.com/article-details/Online-Dispute-Resolution-The-New-Normal>. Accessed 28 Feb. 2024.

community. In order to improve the administration of justice, it is now imperative that the legal system enhance ODR. It has evolved into both a technological revolution of the future and a modern-day dream.

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³ *NITI Aayog Pushes for Online Dispute Resolution for Speedy Access to Justice*. <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1776202>. Accessed 28 Feb. 2024.

⁴ *Articles – Manupatra*. <https://articles.manupatra.com/article-details/Online-Dispute-Resolution-The-New-Normal>. Accessed 28 Feb. 2024.