



FROM COURTROOMS TO CHATROOMS: THE RISE OF ONLINE DISPUTE RESOLUTION

Digin George, T H Alok Narayanan, Drisya M

Final Year Law Student, Final Year Law Student, Final Year Law Student

Department Of Law
Nehru Academy Of Law, Palakkad, India

Abstract : The term Alternative Dispute Resolution (ADR) pertains to a range of techniques utilised to settle conflicts without resorting to legal proceedings. The term Online Dispute Resolution (ODR) pertains to the utilisation of technological means to offer ADR services incorporating ADR into a digital platform. The employment of online resources for ADR techniques is deemed to be a more effective approach. The origins of ADR can be traced back to the constraints of the conventional legal system. At present, alternative methods of resolving disputes are being utilised as a means of circumventing the costs, time lags, and intricate processes that are typically associated with conventional court systems. This research article aims to study and analyse the concept of Online Dispute Resolution, its evolution, its areas, and its applicability in India and also in a global scenario.

IndexTerms - Alternative Dispute Resolution, Online Dispute Resolution, Global Impact, ODR Platforms

I. INTRODUCTION

"Alternative Dispute Resolution" (ADR) means conflict resolution without litigation. All non-governmental conflict resolution is ADR. Most ADR methods are mediation, arbitration, conciliation, negotiation, and transaction.

Despite constraints, ADR allows parties to resolve disputes without legal or court processes. Negotiation does not involve a third party like mediation or conciliation. A binding arbitration award requires an arbitrator or panel. Mediation and conciliation do not involve third-party enforcement.

Parties employ alternative dispute resolution (ADR) methods simultaneously, therefore comparing them is pointless. Contractual parties may agree to initially try conciliation or mediation to resolve disputes. Arbitration or state justice would follow a loss. ADR complements other methods. Fast, discreet, and flexible: ADR. Online ADR is provided by ODR using ICT.

History

Early 1990s projections and observations prompted ODR. Internet growth was paradoxical. This may seem obvious given consumer and copyright disputes and identity theft.

Computers may need antivirus software. Early to mid-1990s spam, phishing, online music downloading, e-commerce, multiplayer gaming, and other issues declined. Even with a divisive community, she believed the internet might solve these problems. This digital environment was supposed to improve business, education, and entertainment.

Digital tools may not alleviate tensions in profitable situations. Conflicts were supposed to be resolved in person. Information exchange and analysis settled disagreements wherever. Face-to-face communication is easiest, but computers and the Internet work well. Software controls data. Thus, opponents can negotiate online with the right software. ODR adoption is vital.

ODR's early success was questioned. Academics and warriors mostly employed this technology. Users arbitrated. Before 1992, Internet access was limited. Internet access was limited and needed computer skills, turning off many.

The National Science Foundation, which regulated the Internet, banned commercial use before 1992. Internet and computer skills weren't enough for e-commerce. Due to limited opportunities, internet users had few consumer or commercial difficulties. Multifaceted internet disputes. Dispute settlement didn't arise till the early 1990s.

1990s were digital. ISPs and graphical browsers followed the World Wide Web's 1989 establishment. Netscape's mid-1990s usability expanded the internet. Internet connectivity and knowing that it allowed convenient communication and access to massive amounts of information spurred this development. However, it became clear that the virtual world will have conflict and require specialised tools, resources, and experience. 1996 law review papers launched ODR. ODR advanced in NCAIR's first conference. NCAIR funded Virtual Magistrate, University of Massachusetts Online Ombuds Office, and University of Maryland family conflict ODR project. Internet 27. As mentioned, a tiny group used the above for specific aims.

1985-launched domains. By 1990, one person controlled 7800 domains. Internet growth changed this. Transactions and relationships always have conflicts. Online buying increases conflict. After the NCAIR summit, the Hewlett Foundation offered the University of Massachusetts a grant to establish the Centre for Information Technology and Dispute Resolution, eventually renamed the National Centre. The Centre was ODR-focused. Cyber Week was the Centre's inaugural virtual conference, with 400 worldwide participants addressing ODR, interactive simulations, and software demonstrations. The Centre and Creighton University's ADR Hub co-host Cyber Week since 2010. Melbourne, Cairo, Hong Kong, Liverpool, Victoria, Haifa, Buenos Aires, and Chennai have held the International ODR Forum, the premier online dispute resolution (ODR) conference. June 2012 Prague Forum.

In the mid-1990s, courts faced jurisdictional difficulties, especially when parties communicated online. Although intriguing, most of those legal queries were unconnected to internet issues. Terrestrial courts failed to resolve most faraway disputes.

However, the network's fast transmission and processing offered creative solutions to non-litigated challenges. To clarify, numerous factors that caused disputes may reconcile them. Academics agree ODR demand is growing. Online confrontations exceeded expectations. eBay settled 60 million complaints in 2010. ODR use is up. ODR resolves offline and online issues. Digital-physical divide disappears. Thus, online dispute resolution's biggest challenge is finding conflict-resolution tools.

ODR [Online Dispute Resolution]

ODR came from digital interactions, notably commercial ones. Online conflicts increased, requiring an internet-specific dispute resolution method. Late 1960s academic and military internet use began. Because parties shared social networks, conflicts were resolved face-to-face. Courts valued traditional lawsuits above online challenges. Internet dispute jurisdiction challenged mid-1990s courts. Free speech and harassment litigation on college campuses grew with internet use. Despite being computerised, conflict resolution was manual. eBay's ODR debuted. Since 1999, the top e-commerce platform has allowed online dispute resolution. Like US civil courts, the system resolves 60 million issues annually. ODR can resolve many disputes quickly.

Similar to ADR, the court system has adopted and promoted Online Dispute Resolution (ODR) to reduce burden, improve results, and better serve litigants. The Conference of Chief Justices, Joint Technology Commission, National Centre for State Courts, and Pew Charitable Trusts have recommended for civil court system reforms to integrate online dispute resolution (ODR). State court administration departments utilise ODR. Utah uses ODR. Technology will enhance ODR.

ODR uses numerous technology methods to improve or replace traditional dispute resolution. ODR simplifies ADR. ODR uses multiple dispute resolution methods. Online dispute resolution (ODR) can address several parenting plan issues for one party. The second party then agreed or disagreed. Negotiation or mediation, in person or online, may assist the parties settle.

ODR platforms provide instant chat to negotiate settlement prices. Posting demands and offers. Mediation may be needed. Video conferencing aids ODR mediation. It's mediated. Mediation platforms may allow parties to work on settlement language and access additional documents. Online arbitration raises legal issues. Online arbitration has trouble implementing international commercial arbitration rules. Online disputes are unregulated. Regulations and ODR legislation are lacking. Law may regulate poorly.

Changed quickly. Over 100 service providers resolve online complaints annually. Global firms. Technology has popularised online arbitration. Online arbitration influences worldwide corporate arbitration despite appearances. ICC IT projects are underway. Projects include defining protocols for using information technology in arbitration, offering an online platform to handle arbitration procedures, and creating a digital clearing house for small legal issues.

Market forces, norms, architecture, and legislation dominate cyberspace. If an ODR supplier overcharges, market methods are better than legal ones. Service providers may ignore client pricing emails. A provider's computer won't recognise a non-existent credit card number. credit card fraud. Online dispute resolution follows law.

Illegal online arbitration. No internet arbitration law exists. Standard arbitration laws apply without internet arbitration laws. Legal online arbitration. Such methods are unique, hence a legal framework may be wise.

Standardise internet arbitration laws to avoid local differences. Information technology laws without arbitration needs a global legal foundation. Arbitration statutes cover more. Such laws prevent domestic cybercrime.

Protracted international convention talks make harmonisation difficult. Model laws aid legal harmonisation. Flexibility may impair harmonisation. Regulating this sector with a single legal framework is best. Online arbitration needs a platform.

ODR METHODS

Automated negotiation is online conflict settlement using AI and algorithms. Automated negotiating systems eliminate humans to speed up resolution. These systems examine parties' positions and interests using legal precedents, industry norms, and previous dispute resolutions. The analysis shows that the system generates prospective solutions or compromises that meet predetermined criteria.

Automation speeds discussions. Technology speeds up assessment and proposal, reducing iterations. This works well in fast-paced commercial deals and confrontations. Automated negotiating systems offer objective advice since they are not influenced by emotions, assumptions, or power disparities.

Double Blind Bidding makes online dispute resolution fair and transparent. Both parties submit private settlement proposals. Then, impartial third-party evaluators or algorithms determine the best bid. Double blind bidding allows parties to submit fair and honest proposals based on the case's strengths and desired outcomes. This approach fosters justice and opposes manipulation. Double-blind bidding helps parties to reach mutually beneficial agreements instead of arguing.

"Visual Blind Bidding" resolves digital disputes with visuals. Unlike text-based negotiations, visual blind bidding platforms allow players to present their offers in graphs, charts, or graphics. Visual aids simplify party proposals.

Visual blind bidding benefits. It simplifies and engages difficult ideas. Visual tools improve communication and understanding of key subjects. Text-only talks benefit from visuals. Visual information transcends language and culture. Finally, employing visual tools to persuade and influence stimulates creativity and unconventional thinking during negotiations.

Assisted negotiations balance human and automated conflict resolution online. Mediators and dispute resolution specialists use digital platforms to help parties reach a win-win accord. Facilitators promote good communication, brainstorming, and fairness and courtesy in negotiations.

Facilitated discussions may reveal legal or technical issues, underlying interests, and remedies. Expertise and impartiality promote negotiating efficacy and amicability. The facilitator can also help parties overcome obstacles and emotional concerns, foster teamwork, and improve chances of success.

Online conflicts are resolved through assisted negotiations. This dispute resolution strategy requires interpersonal dynamics and emotional intelligence. Technology improves efficiency and convenience, and qualified specialists can adjust their techniques to specific situations.

ONLINE DISPUTE RESOLUTION IN INDIA

ICT-based ODR is being implemented in India. ODR is digital. Document submission, impartial party selection, evidence processing, oral hearings, discussion facilitation, and legally enforced settlements. ODR has grown in India since the Information Technology Act of 2000. International arbitration criteria were met by the 1996 Arbitration and Conciliation Act. ADR, including ODR, is permitted by Section 89 of the 1908 Code of Civil Procedure.

India uses AI-based dispute resolution, virtual courts, and online mediations and arbitrations. ODR transcends ICT and ADR. Laws, rights, and resources help ODR promote legal well-being. Legal education and settlement modules enhance informed decision-making and dispute avoidance. Online mediation and arbitration reduce disputes.

It's online and non-courtroom. Second, to help litigants resolve their disputes, not judges. Finally, courts fund ODR programmes. These programmes resolve digital conflicts efficiently, effectively, transparently, and fairly.

ODR involves electronic records, impartial judges or panellists from an ODR service provider, a systematic resolution method, conciliation, mediation, or arbitration. Algorithmic dispute resolution and video conferencing can settle disputes without third parties. Dissatisfied parties can reopen the case. Notification, arbitrator selection, hearings, and award implementation follow.

Online Dispute Resolution (ODR) is cost-effective, fast, convenient, eliminates travel, increases community involvement, flexibility in discussions, and improves access to varied dispute resolution procedures. Data storage and organisation are simplified, saving time and labour, enhancing legal compliance, and modifying the law.

ODR has downsides. Third-party applications can lead to breaches of confidentiality, difficulties building trust between parties and impartial parties, difficulties facilitating dynamic discussions and interactions, a lack of human understanding and compassion, difficulties for those with limited technological skills, a lack of accountability and regulatory oversight, and the potential for

India should phase in ODR. Phase 1 uses ODR to settle COVID-19-related family, labour, and consumer issues. In the second phase, government assistance, digital infrastructure, trust-building, legal culture promotion, and non-court-based conflict resolution methods incorporate Online conflict Resolution (ODR) into legal and regulatory frameworks. In the third phase, ODR (Online conflict settlement) becomes the main conflict settlement method, necessitating ongoing efforts to expand capacity, infrastructure, and inventiveness to avoid legal system overload.

NITI Aayog and others are preparing an Indian online dispute resolution (ODR) manual. The publication creates awareness, guides ODR models, and helps organisations implement ODR. Indian ODR deployment and integration require a tiered plan and government and private sector stakeholder engagement.

ONLINE DISPUTE RESOLUTION'S GLOBAL IMPACT.

Online Dispute Resolution (ODR) has become increasingly prominent and widely adopted in numerous countries across the globe. Several prominent instances of global adoption and application of Online Dispute Resolution (ODR) include.

EUROPE:

All EU member states must build Online Dispute Resolution (ODR) systems for consumer complaints under the EU Directive on Alternative Dispute Resolution. The directive requires competency, transparency, efficiency, impartiality, autonomy, and legitimacy. This guidance will help customers resolve e-commerce issues throughout Europe. The Traffic Penalty Tribunal (TPT) in England and Wales allows ticket appeals, evidence submission, and case tracking. The Austrian Internet Ombudsman handles EU consumer internet complaints via ODR. Europe's sovereign UK. HM Online Court (HMOC) is a UK online dispute resolution initiative. The proposed HMOC would offer legal advice, mediation, and online adjudication by experienced judges. This technique promotes legal access and agreement. Internet judges' rulings are legally binding.

AUSTRALIA:

Australia promotes ADR and ODR. Courts and tribunals use ADR instead of litigation. Despite legal industry development, Australia has been sluggish to adopt online dispute resolution (ODR). The Australian Federal Court has approved virtual trials, a key ODR innovation. The Australian Guidelines for E-Commerce, Consumer and Competition Act, and Electronic Transactions Act aim to promote e-commerce and fair trade. AI and technology replacing judges' discretion remain worries. ADRAC values cutting-edge technologies and cloud platforms. NSBT may operate online.

CHINA:

China dominates technology and e-commerce due to its massive internet user base and digitization. Thus, ODR has advanced. Three Chinese courts handle online disputes. Hangzhou, Beijing, and Guangzhou courts have resolved many cases since their creation. AI reduces court presence in some courts. Alibaba Group-owned Taobao handles complaints via ODR. Alibaba Public Jury ODR won.

E-commerce customer dispute resolution platform Dian Su Bao invites user feedback to improve services. China's ODR services are popular, but data privacy worries remain. Chinese regulations prohibit apps and ODR platforms from illegally gathering and utilising personal data. Despite hurdles, China's online dispute resolution (ODR) developments illustrate the promise of digital processes and establish the nation as a leader in this field.

U.S.A:

Over 50 US county and statewide courts implemented ODR in 2019. Three primary ODR systems serve different purposes. Modria settles commercial civil issues, while Cybertrip settles quickly and cheaply. Square Trade's ODR method affected eBay's. ODR resolves private sector disputes for eBay and PayPal. Algorithms, computer-mediated communications, and patent-pending private technologies did this. PayPal requires sellers to prove fulfilment, while eBay processes 60 million disputes annually. ODR's US growth is projected to continue.

INDIA'S ONLINE DISPUTE PLATFORMS

Online Dispute Resolution (ODR) platforms are innovative and effective ways to resolve problems in India. Technology-based conflict resolution platforms are affordable and rapid.

Online dispute resolution (ODR) platform CADRE promises to improve dispute settlement.

CADRE rules simplify dependence. CADRE's basic interface prioritises usability. Parties are guided by arbitrators from various fields. The parties get the arbitration judgement through email and WhatsApp with relevant documents and timelines. Bangalore houses CADRE. The company employs many marketing tactics to engage users.

CORD is India's online dispute resolution platform. Nomology Technology Private Limited created CORD to make arbitration and mediation easier, cheaper, and faster. Their modular format allows online arbitration, mediation, and conciliation. CORD's digital method improves administrative efficiency and environmental responsibility. Keystone Partners partner Vikas Mahendra co-founded the platform. The platform prioritises justice, clarity, and privacy.

SAMA is a full multiparty ODR platform. SAMA efficiently resolves disputes between firms and customers, employers and employees, landlords and renters, and professionals and clients. Safe and kind. The project involved business and social and environmental impact leaders. In 2015, Vikram Kumar, Pranjal Sinha, and Akshetha Ashok formed SAMA. The platform, which has mediated many issues, is Department of Justice-approved.

AGAMI promotes ODR. The Agami Prize, Summit, and Challenges promote legal innovation. AGAMI plans to employ online dispute resolution (ODR) to handle one million cases by 2022 and speed up justice. Aman Sanghavi, Bhaven Shah, and Namita Shah established Presolv360 in 2017 to resolve commercial conflicts cheaply. Presolv360 produces rapid, legally binding results using technology, human expertise, and creativity. The organisation handles commercial disputes and offers Presolv360, a computer platform for dispute prevention, resolution, management, and ADR. Its headquarters are in Mumbai, Maharashtra.

IIAM's **PEACEGATE** digital programme offers alternative dispute resolution ADR ERP software. Communication, back-office support, bookkeeping, registration and secretarial assistance, neutral selection, and more comprise the resolution process. The software's contemporary ADR approaches work for mediators. Peacegate lists arbitrators, mediators, advocates, and mediation consultants. Sehmati is a Delhi Dispute Resolution Society internet mediation tool. Sehmati, controlled by the Department of Law, Justice, and Legislative Affairs, uses mediation and conciliation in pre-litigation and legal proceedings. Google Meet video conferencing settles disputes.

CONCLUSION

Law seeks justice. Justice must alter. Conflicts are inevitable, but conflict resolution is not. Online dispute settlement is the cheapest. In India, judicial issues demand more ODR. Justice is needed now, therefore why shouldn't the court system use modern technology in judicial matters? Affordable, fair justice for everybody. Government and society must prioritise justice delivery. India requires good ODR. India has a lengthy history of ADR. Ancient India used private arbitrators to settle conflicts. Before royal courts, prehistoric autonomous societies like kulas, srenis, and pugas peacefully settled disputes amongst individuals. British colonialism established a formal, adversarial dispute resolution system. Arbitration, an extrajudicial dispute settlement technique, has many provisions. Due to formal judicial system inadequacies, ADR is increasingly understood. Alternative conflict resolution options are employed to minimise court expenses, delays, and cumbersome procedures. The 2015 Commercial Courts Act and 2016 Real Estate (Regulation and Development) Act in India use alternative dispute resolution. The Rajya Sabha's Mediation Bill 2021 advances India's ADR process.

REFERENCES

- [1] Khushi Sharma, Online conflict resolution: an analysis, iPleaders, (November 21, 2021, 03.00pm)<https://blog.iplayers.in/online-dispute-resolution-an-analysis/>.
- [2] Alessio Lomuscio, Simon Parsons, Automated Negotiation: Prospects, Methods and Challenges, ResearchGate, (13 March, 2021, 10.43am), https://www.researchgate.net/publication/226120112_Automated_Negotiation_Prospects_Methods_and_Challenges.
- [3] Tim Constable, Blind bidding - the next logical step in remote mediation, Lexology, (12 March 2012) <https://www.lexology.com/library/detail.aspx?g=77156745-206e-44e5-9905-10d40a420008>.
- [4] Parteekgarg, Online Dispute Resolution in India, Legal Service India, (24 October, 2022), <https://www.legalserviceindia.com/legal/article-6080-online-dispute-resolution-in-india.html#:~:text=ODR%20can%20help%20avoid,legal%20barriers%20and%20avoid%20them>.
- [5] Teresa Ballesteros, "International Perspectives on Online Dispute Resolution in the E-Commerce Landscape", International Journal of Online Dispute Resolution, 2, 2021:85-101.
- [6] Astitva Kumar, India's top ODR startups, ICMCR, (22 February, 2022), <https://icmcrmediation.org/indias-top-odr-startups-2/>.