

Online Dispute Resolution (ODR)

Online Dispute Resolution is the resolution of disputes, particularly small and medium-value cases, using digital technology and techniques of Alternate Dispute Resolution (ADR), such as negotiation, mediation, and arbitration.

In June 2020, NITI Aayog, in association with Agami and Omidyar Network India, brought together key stakeholders in a virtual meeting for advancing Online Dispute Resolution (ODR) in India. Senior judges of the Supreme Court, secretaries from key government ministries, leaders of the industry, legal experts and general counsels of leading enterprises participated in it.

Considering the ongoing COVID-19 pandemic, on April 10, 2021, a handbook on ODR, developed by Agami and Omidyar India, in association with NITI Aayog and with the support of ICICI Bank, Ashoka Innovators for the Public, Trilegal, Dalberg, Dvara and NIPFP was released.

Online Dispute Resolution (ODR) - Origin & Background

The origins of ODR can be traced to the evolution of the Internet in the 1990s, which increased online transactions, and thereby disputes related to such transactions.

Broadly, ODR's development across the world can be divided into three phases, with each phase benefiting from the subsequent innovations in Information Communication and Technology (ICT). Discussed below are the three phases:

- **First Phase: eBay's experiment leads the way**
 - The first initiatives on ODR projects were launched in 1996 in the University of Massachusetts and the University of Maryland
 - With the development of e-commerce, a robust system was required for operating commercial activities on the internet. ODR offered a solution to this problem
 - In 1999, eBay started a pilot project to provide online mediation facilities for disputes arising between buyers and sellers on its platform
 - By 2010 eBay was handling over sixty million disputes per year through its ODR platform
- **Second Phase: Boom of ODR start-ups**
 - The success of this model and the rapid growth of the internet kick-started the evolution of ODR and led to the boom of ODR platforms. There were up to 21 new ODR programs that were launched in the year 1999
 - Only a few successful platforms such as Cybersettle, Smartsettle and the Mediation Room were able to make a remarkable impact in the dispute resolution ecosystem
- **Third Phase: Adoption by the Government and Judiciary**
 - The success of a few of the private ODR platforms drew the interest of governments towards this emerging addition to the dispute resolution ecosystem

Online Dispute Resolution in India

The United Nations Commission on International Trade Law (UNCITRAL) adopted the UNCITRAL Model Law on International Commercial Arbitration in 1985 and the UNCITRAL Conciliation Rules in 1980. In the context of international commercial relations, this Model Law has been recommended by the United Nations General Assembly (UNGA).

India incorporated these uniform principles of ADR in the Arbitration and Conciliation Act, 1996.

In the context of India, given below is the timeline for ODR development in India:

2006	National Internet Exchange of India adopted .IN domain name Dispute Resolution Policy (INDRP) which provided the ODR
2011	Chennai hosted the 10th Annual International Forum on ODR
2017	Ministry of Law and Justice issued a statement to urge the Government agencies to resolve disputes through online arbitration
2018	Ministry of MSME launched SAMADHAAN Portal to address delay of payment disputes involving Micro and Small enterprises
2019	E-ADR Challenge was launched to identify and support ODR start-ups
2020	<ul style="list-style-type: none">• The government of India launched the Vivaad se Vishwas Scheme for efficient resolution of tax disputes through ODR• Vidhi Centre for Legal Policy published a report on mainstreaming ODR in India• NITI Aayog established a committee under the Chairmanship of Justice (Retd.) A.K.Sikri to broad-base the use of ODR in India• Chhatisgarh conducted the first virtual Lok Adalat and provided conciliation services• Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in their report called for the introduction of technology in the arbitration and conciliation process

ODR in India & COVID-19

During the ongoing Covid-19 pandemic, the target is to look into Covid-related disputes (most notably in lending, credit, property, commerce and retail) through ODR, which is an important part of the economic revival.

It will set into motion the use of technology towards efficient and affordable access to justice, especially in post-pandemic times.

Benefits of ODR

1. **Cost-Effective** - ODR has the potential to reduce legal costs. First, by way of reduced time for resolution and second, by doing away with the need for legal advice in the select category of cases
2. **Convenient and quick dispute resolution** - ODR eliminates the need for travel and synchronisation of schedules
3. **Increased access to justice** - As part of India's commitment and leadership to attain Sustainable Development Goals adopted by the UN General Assembly in 2015, India is committed to ensuring equal access to justice for all. Since ODR tools such as online negotiation and mediation are premised on mutually arriving at an agreement, they make the dispute resolution process less adversarial and complicated for the parties
4. **Removes unconscious bias** - ODR processes lessen the unconscious bias of the neutral while resolving disputes
5. Exploring the massive potential of Online Dispute Resolution (ODR) can enhance the Ease of Doing Business in India

Challenges of ODR

- **Digital literacy** - ODR requires a basic level of digital literacy as a prerequisite. In India, digital literacy often varies across age, ethnicity and geography. This digital divide needs to be addressed to ensure that ODR is adopted by society at large and not remain limited to urban areas
- **Digital infrastructure** - A broad base adoption of ODR will require essential technology infrastructure across the country
- **Lack of trust in ODR services** - A lot of people in the country do not trust the emerging technology which is a major challenge for the people of India
- **Privacy and confidentiality concerns** - Greater integration of technology and reduced face to face interactions create new challenges for privacy and confidentiality, especially in dispute resolution