

**DESIGNING THE FUTURE OF DISPUTE RESOLUTION
APROPOS THE DRAFT POLICY ON ODR BY NITI AYOOG**

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ABSTRACT

With a view of the up-growing online working platforms across the country, it is time for the legal system to move from the conventional system to the online system.

The present paper is a study of the current Online Dispute Resolution System in India and certain developments in the said field. The need for the online resolution system is important as we can see that more and more businesses are shifting towards e-commerce so why not the legal system. With the most certain advantage of online dispute resolution of cost and time efficiency, there are several other advantages as well but since it is a new concept in our country there will be many challenges as well.

KEY WORDS

Online Dispute Resolution, Alternate Dispute Resolution , Niti Ayog, ORD, ADR, ODR Draft Policy, 2020

INTRODUCTION

“The strength of Online Dispute Resolution (ODR) is founded in the concepts of decentralization, diversification, democratization and disentanglement of the entire justice delivery mechanism”¹

~ Justice DY Chandrachud

There are 1.41 billion people living in India², and because of this enormous population density, there will unavoidably be tremendous interpersonal conflict. In our country, there are still 4.13 crore cases waiting in the District Courts, 59 lakh cases in the High Courts, and over 71,000 cases in the Apex Court³. Managing all of these instances—which are growing every day—without assistance is practically impossible.

People may now readily interact with one another across continents and obtain information from a variety of sources thanks to the advancement of contemporary technology and the ensuing expansion of the Internet. Nowadays, you can find practically anything online, whether you're looking for it for work or for enjoyment. Online dispute resolution, also known as ODR, is a more convenient, practical, and cost-effective option to litigation or alternative dispute resolution for

¹ <https://government.economictimes.indiatimes.com/news/digital-india/online-dispute-resolution-is-the-need-of-the-hour-justice-chandrachud/82013820>

² <https://worldpopulationreview.com/countries/india-population> (Accessed on 10th September, 2022)

³ <https://www.livelaw.in/top-stories/over-71000-cases-pending-in-supreme-court-59-lakhs-in-high-courts-law-minister-tells-raiya-sabha-205784#:~:text=The%20total%20number%20of%20pending,the%20Raiya%20Sabha%20on%20Thursday.>

(Accessed on 11th September, 2022)

the growing number of online transactions and interactions that result in disagreements (therefore, referred to as ADR) (From hereon referred to as ODR)

One of the obstacles to the creation of a strong legal system for resolving conflicts is the uniqueness of the virtual world, which include jurisdictions with complicated legal issues and conflict of laws. Online disputes have the potential to grow significantly more complex and numerous than conventional disputes.⁴

ODR is unconstrained and not subject to any laws. Traditional dispute resolution processes, such as court cases, may not be sufficient to meet the interests of the parties because to their complexity, reliance on jurisdictions, and load of cases. This reality creates a number of risks and legal challenges because traditional conflict resolution processes can be expensive, time-consuming, and have their own unique set of legal issues. ODR techniques have developed as a natural reaction, with the intention of offering an efficient means of addressing the trust difficulties and assisting disputants in preventing, managing, and resolving any conflicts they experience.⁵

After the Covid-19 epidemic in India, a new mechanism that could be managed through internet and video conferences was needed to settle disputes. It was anticipated that the best line of action would be to modernize the current ADR processes. Even while ADR is less formal, more flexible, and contains more

⁴ Aashit Shah, 'Using ADR to Resolve Online Disputes'

⁵ Colin Rule, 'Expanding Access to Justice through Online Dispute Resolution - Legal Talk Network' (Legal Talk Network, 2018)

procedures that lead to quick settlements than ODR, it is intended to resolve disputes outside of the courts more quickly. ICT tools and ADR were combined to create ODR, a brand-new field.

To enhance e-commerce and India's future economic development, the country should think about creating a framework for addressing client issues. ODR can be used in place of civil procedures to avoid difficult, expensive legal conflicts and increase public trust in online environments. Due to the country's rapid growth in e-commerce, India is currently one of the newest e-commerce hotspots for foreign investors. India is thus in a position to improve its economic standing by establishing efficient dispute resolution systems for consumers who are afraid to engage in these e-commerce transactions because they are uncertain of the potential issues. They could believe that managing grievances and settling disputes is challenging, particularly when online sellers are involved.

If there are no effective solutions available in the "borderless marketplace," consumers and businesses may decide not to transact.

Conflicts arise as a result of increased transactions and contacts, making online dispute resolution a simpler, more useful, and more affordable alternative to litigation or other forms of alternative dispute resolution.

**DESIGNING THE FUTURE OF DISPUTE RESOLUTION: THE ODR
POLICY PLAN FOR INDIA, THE NITI AAYOG EXPERT COMMITTEE
ON ODR, 2020**

The covid-19 pandemic, which caused court closures and had a significant influence on the global justice system, struck just as the ODR was about to receive recognition on a global scale. The closure of the courts, however, turned out to be a gift in disguise for India in terms of ODR as the country was always regarded as one of the leaders in the global ODR Movement. Everyone was forced to use one of the ICT Tools to resolve their issues. Now, video conferencing, online arbitration, online mediation, and other methods were used to settle the issues. Then, on June 6, 2020, Niti Aayog entered the picture and organised a virtual consultation with civil society organisations under the heading Catalyzing Online Dispute Resolution in India.⁶ This was done with the intention of bringing together significant players to talk about how ODR mechanisms may be implemented in India. The Chief Executive Officer of NITI Aayog, Mr. Amitabh Kant, identified the need for some innovative and disruptive changes in the way justice is delivered and their potential to significantly enhance access to justice. ODR can help to achieve these changes. All the stakeholders agreed that collaboration between the

⁶ NITI Aayog, 'Catalyzing Online Dispute Resolution in India' (07 June 2020) <https://pib.gov.in/PressReleasePage.aspx?PRID=1630080> accessed 31 August, 2022

many stakeholders, from the government level to the industry level, was the key to ODR development in India.⁷

On August 8, 2020, the NITI Aayog hosted another session with the theme of '*Unlocking Online Dispute Resolution to Enhance the Ease of Doing Business*'.

The CEO of NITI Aayog, Mr. Amitabh Kant observed that the crisis of COVID-19 is likely to see a deluge of disputes in courts, most notably in lending credit, property, commerce and retail that will require expedient resolution. It is for this reason that a new model like Online Dispute Resolution needs explicit support.⁸

In October 2020, Niti Aayog prepared a Draft ODR Policy and included many kinds of disputes which could be settled through ODR. The policy included following disputes:

- Non-payment of wages
- Termination of wages
- Tenancy
- Consumer Disputes
- Other Commercial Disputes

According to the Draft Policy, the government can introduce ODR facilities at a very affordable cost for disputes with monetary values below a specific threshold.

⁷ NITI Aayog, '*Unlocking Online Dispute Resolution to Enhance the Ease of Doing Business*' (25 August 2020) <https://niti.gov.in/unlocking-online-dispute-resolution-enhance-ease-doing-business> accessed 31 August 2022

⁸ ibid

For relocated low-income workers, especially during the COVID-19 pandemic, this might be of very low cost or even free, making it incredibly advantageous.

According to the policy, there are currently over three crore court cases that are waiting, the majority of which are simply consumer disputes. In order to lessen the pressure on the courts, the legislative committee on law and justice has advocated continuing virtual courts even when the Covid-19 outbreak is over.⁹

Within a year, eBay promises to resolve 60 million client complaints. India jumped from 142nd to 63rd position in 2020 for ease of doing business. Therefore, investing in ODR may undoubtedly attract more and more businesses. If we want the corporations to conduct business in India, it is essential that we have an effective dispute resolution procedure.

ODR takes place outside of the judicial system, whereas Virtual Courts refer to situations when the court hearings are conducted electronically through video conference, despite the fact that Virtual Courts became popular during the epidemic. Virtual courts should continue to operate even after the Covid-19 Pandemic, according to a recommendation from the Parliamentary Committee on Law and Justice. Similar circumstances apply to ODR, as the committee has made it clear that ODR would continue to be used vigorously even after the pandemic is gone. It can be firmly stated that the ODR will be around for the foreseeable future.

⁹ Designing the Future of Dispute Resolution: The ODR Policy Plan for India, The NITI Aayog Expert Committee on ODR, 2020

CONCLUSION

ODR is now an intriguing new technique for resolving consumer disputes, but one that is not fully developed. The Internet influences how dispute resolution services are delivered. When the technical, commercial, and legal difficulties have been effectively addressed and appropriate solutions have been presented for an ideal ODR regime, ODR will receive the widest acceptance from the general public. The ODR process must be accessible, convenient, adaptable, transparent, supported by enough infrastructure, secure, effective, and enforced.

For the ODR process to be effective there has to be widespread awareness, technological training for workers, funding for initiatives, and codification of ODR law and practice. ODR has all the necessary qualities to develop into an effective way to settle electronic disputes that will have long-term advantages, such as secure e-commerce and increased trust and confidence in the internet.

It is the perfect time to increase and regulate those ODR providers who are prepared to offer just and efficient services. Therefore, it can surely give a platform for ODR to be a success in India. ODR will continue to grow even when Covid-19 is over and the physical courts are reopened, according to the Ministry of Law, which recently released the draught ODR policy for 2020. A powerful and

trustworthy judicial system can be formed for any country by combining ODR, ADR, and other litigation methods because ODR cannot be effective in every situation.

Therefore in view of the Researcher, it can be said that the ODR is the better, more effective and a futuristic substitute of ADR or other traditional dispute resolution mechanisms, as we can observe from the day to day development of modern technology and the subsequent growth of the Internet, people can easily connect with each other across continents from which it is safe to say that the more use of internet in our daily life is making a better platform for the ODR for the near future.

