

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 5

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Rise of Online Dispute Resolution amidst Covid-19

VISHWAM KUMAR¹ AND RITESH VERMA²

ABSTRACT

Alternative Dispute Resolution (ADR) has become an important element of the judicial system in recent years since it allows for swift settlements and frequently results in outcomes that are beneficial to both parties. Online dispute resolution is an evolution of the same, with the main difference being that it incorporates the use of technology in the settlement of disputes. While India has progressed down the route of digitization, some would say that ODR techniques are required, while others would contend that they are not. There are certain advantages in using an online dispute resolution mechanism such as it is Convenient, accurate and it saves a lot of time and money. It also provides more, efficient, effective, scalable, and collaborative mechanisms of containment and resolution. In this paper we have discussed that how covid-19 has streamline the Online dispute resolution process.

I. INTRODUCTION

Online Dispute Resolution (ODR) is a subset of Arbitration Dispute Resolution (ADR) that incorporates a technological twist. We are all familiar with traditional litigation methods, which will always prevail for some inexplicable reason, but the load on the courts of dispute cases can be avoided. Arbitration Dispute Resolution is one option for resolving some conflicts outside of the courts, such as through arbitration, mediation, or conciliation.

The NITI Aayog recently hosted a webinar on ODR in India, where the experts discussed how the demand for ODR post-Covid-19 will grow, as well as methods to enhance the process across the country. Along with the ADR, Online Dispute Resolution uses Information Technology. In the continuing epidemic, Indian courts have gone out of the traditional litigation procedure with the advent of e-Courts and online hearings through videoconferencing.

Due to the spread of Covid-19, the traditional justice delivery system is currently on pause. Recently, the Apex Court opened the door to e-Court hearings for urgent issues, and several High Courts and District Courts have soon followed. The Apex Court has now included e-filing

¹ Author is a student in India.

² Author is a student in India.

of cases and petitions to its list of services. Arbitration is a less complex and more flexible method of settling disputes, and it is becoming increasingly popular in the legal community across the world. The commercial business is massive now, as are the conflicts that arise from it, and these multi billion-dollar issues prefer to be resolved through arbitration for obvious reasons.

Cross-border conflicts are on the rise as a result of globalization, and at the moment, owing to Covid-19, nations are under lockdown and travel options are limited. In such situations, Online Dispute Resolution is the ideal approach to resolve a dispute.

II. ORIGIN OF ONLINE DISPUTE RESOLUTION

Professor Ethan Katsh, the creator of eBay, and Janet Rifkin were the first to create the term "online disputes." They established an online platform for resolving disputes between buyers and sellers, which proved to be a success. Professor Ethan Katsh and Janet Rifkin created the National Centre for Technology and Dispute Settlement in 1998, which promoted the notion of online dispute resolution across the world. They later published a book in 2001 called *Online Dispute Resolution*, in which they categorized the evolution of ODR into three stage³s:

- a) The expansion of ODR was modest until 1995.
- b) From 1995 to 1998, as the usage of the internet grew and the ODR mechanism picked up steam .
- c) After 1998, business organization began to invest in and establish ODR institutions.

Since then, online dispute resolution has grown and thrived, and the need for ODR has never been greater than it is now, especially in the midst of a pandemic.

III. ONLINE DISPUTE RESOLUTION IN INDIA

The ODR refers to disputes that are resolved with the assistance and support of technology over the internet, and when parties resolve their disputes using Information Technology in conjunction with the Arbitration Dispute Resolution mechanism. Mediation, Arbitration, and Negotiation are all part of online dispute resolution, as is ADR. All meetings and exchanges of opinions, perspectives, and recommendations in an ODR are conducted via video conferencing, emails, and phone calls. Only the parties to the dispute and the mediators or arbitrators participate in every step of the ODR procedure online.

ODR is not a new phenomena in India, but it is still developing, with the potential to improve

³ *Online Dispute Resolution* Ethan Katsh, Janet Rifkin. ISBN: 978-0-787-95676-9 May 2001

justice with the aid of the Information Technology Act of 2000 and the Arbitration and Conciliation Act of 1996.

IV. ROLE OF ONLINE DISPUTE RESOLUTION AMIDST COVID-19

India has excelled in the litigation field, with the Supreme Court changing the path of justice in the aftermath of the Covid-19 outbreak, when physical courts were rendered impractical. Indian courts have heard more cases and issued more judgments than courts in the United Kingdom and Canada, according to statistics. Covid-19 has currently challenged the Indian judicial system to the point that online or virtual administration of justice has become necessary. Online Dispute Resolution (ODR) is currently the talk of the town; every now and then, either judges or distinguished practitioners remark about the importance of ODR in the current and post-Covid19 scenarios.

In a recent webinar co-hosted by the NITI Aayog and the Indian Dispute Resolution Centre, the CEO of the NITI Aayog stated that Covid-19 is a chance to enhance the country's ODR. Following Covid, there will be an increase in property, lending, credit, and commerce disputes, which ODR has the ability to address. ODR is the next step up from ADR. It is not only urgent, but it would also be a significant route for post-Covid conflict resolution.

In India, alternative dispute resolution (ADR) is a growing and widely used procedure by many large corporations and entities, and utilizing ODR for outstanding cases with the parties' permission will offer more credence to out-of-court settlements with much more flexibility incorporating technology.

V. RECOGNITION OF ODR IN THE BANKING SECTOR

In 2019, the Reserve Bank of India set up a committee to look at the development of digital payments and the resulting conflicts. In addition, the committee emphasised the need of and implementation of online dispute resolution for digital payment issues. There has been a significant increase in digital payments, which has been facilitated by government agencies. India must be prepared for any problems that may arise as a result of such a massive digital transition. ODR has the potential to play a critical role in resolving disputes resulting from small and medium-sized transactions. Many banks are currently planning to use the ODR method to resolve minor to medium-sized disputes.

ICICI Bank recently transferred 10,000 cases to SAMA, an ODR institute, for online arbitration and conciliation. ODR is gaining traction in India, and the present pandemic provides an excellent chance for it to flourish. Many ODR institutions are already accepting applications,

and it is also being encouraged by the courts.

VI. INSTITUTES FOR ONLINE DISPUTE RESOLUTION IN INDIA

- **SAMA** is an online dispute resolution platform that offers services including arbitration, mediation, and conciliation. SAMA also accepts any and all conflicts involving businesses or people. It is a platform that is also recognised by the Government of India's Ministry of Law and Justice. SAMA is also being used by ICICI Bank to assist address 10,000 issues.
- **CADRE** (Centre for Alternative Dispute Resolution Excellence) is a non-profit organisation that promotes alternative dispute resolution. It's another platform that uses cutting-edge technology to provide online dispute resolution services. It's a website where disputing parties may get together and agree on an arbitrator. The arbitrator's fees are split evenly between the parties.
- Another agency that promotes ODR in the nation is CODR (Centre for Online Resolution of Disputes). It also enables ODR services involving technology. Parties to a dispute are free to use their own resources. ODR provides various venues for resolving online disputes, and corporations, entities, and people are opting for it.

Covid-19 provides ideal conditions for ODR to take the lead in ADR and prosper in the future.

VII. ONLINE DISPUTE RESOLUTION IN INDIA: BENEFITS AND CHALLENGES

Covid-19 has created a situation in which ODR has solidified itself, and many conventional litigation specialists are now cheering for it. ADR has shown to be a success in India, and it has also become the preferred method of settling or resolving commercial disputes. ODR is not new, but it is a step forward with a touch of current technology. ODR is adaptable, inexpensive, and takes less time to resolve a disagreement. The greatest thing is that all of these procedures are carried out via the internet by e-mail, WhatsApp, SMS, or video conference. Nobody, including the disputing parties and the arbitrators, is obliged to meet face to face.

In a country like India, several problems may arise, such as the fact that not everyone can access ODR, and India also lacks a consistent distribution of technology across the country. Because this system is laced with technology, it is possible that certain errors will arise from time to time, causing the process to be hampered. India currently lacks professionals capable of resolving conflicts over the internet. In another area of the world, ODR is dealing with a massive number of business-related issues. The ODR is highly popular in the United States and the European Union, with commercial sectors actively using it to resolve their disputes without the need to see the parties in person.

VIII. CONCLUSION

In India, ODR is still in its formative stages, yet the present situation is conducive to its evolution and growth. Indian courts are already overcrowded, therefore any alternative to obtaining justice should be promoted. ADR has shown its worth in the country, and many businesses and individuals rely on it. Because India has such a large market, including e-commerce, ODR would be an excellent way to settle or resolve such disputes.

ODR has the potential to attract Indian individuals and corporations. Covid-19 might act as a catalyst for ODR, allowing it to reach and spread across the country sooner than it would have been feasible under normal circumstances. India is yet unfamiliar enough with the ODR to fully deploy it. Professionals must be trained, and individuals and businesses must be informed on how to use the ODR system. If these conditions are satisfied, ODR has a promising future in India. For the Indian courts, legal practitioners, and contracting parties, it would be a win-win scenario.
