



# ONLINE DISPUTE RESOLUTION IN THE INDIAN LEGAL LANDSCAPE - OPPORTUNITIES, CHALLENGES, AND THE HUMAN DIMENSION

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## ABSTRACT:

India's dispute resolution ecosystem stands at a critical inflection point. With over 50 million cases pending before courts across the country, the promise of Online Dispute Resolution (ODR) has never been more urgent or more contested. This article examines the practical and human dimensions of ODR within the Indian legal context — drawing upon the existing statutory framework, practitioner experiences, and the socio-cultural factors that shape how disputes are navigated in cyberspace. It argues that while ODR holds transformative potential for expanding access to justice in India, its practitioners must grapple with unique human, technological, and institutional challenges that have no straightforward analogues in traditional Alternative Dispute Resolution (ADR) practice.

Keywords: Online Dispute Resolution, Alternate Dispute Resolution, Mediation, Indian legal system.

## INTRODUCTION

The Indian judiciary has long laboured under what legal scholars and jurists alike have called a “docket explosion.” The National Judicial Data Grid reports that as of 2024, more than 44 million cases remain pending across district courts, High Courts, and the Supreme Court. The average time for disposal of a civil suit in India often stretches to years, sometimes decades — a reality that functions as a denial of justice for millions of ordinary citizens who cannot afford protracted litigation. Against this backdrop, Online Dispute Resolution has appeared not merely as a technological novelty but as a structural necessity.

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ODR, understood as the use of information and communication technology to facilitate the resolution of disputes — encompassing online mediation, arbitration, negotiation, and automated settlement tools — has found increasing statutory recognition in India.

The Arbitration and Conciliation Act, 1996, as amended by the Arbitration and Conciliation (Amendment) Act, 2019, explicitly recognises the use of electronic communication in arbitral proceedings. The Consumer Protection Act, 2019 introduced provisions for online mediation through the establishment of the Consumer Mediation Cell, and the Information Technology Act, 2000 lends digital transactions and electronic records legal validity, forming a bedrock of legitimacy for ODR processes.

The NITI Aayog, in its landmark 2021 report “Designing the Future of Dispute Resolution: The ODR Policy Plan for India,” envisioned ODR as a means of ensuring that every Indian citizen — regardless of geography, literacy, or economic means — has access to a fair and timely resolution of their disputes. Yet the realisation of this vision is not simply a matter of legislative reform or platform design. It is, fundamentally, a matter of human practice — of how neutrals, disputants, and institutions behave when conflict is mediated through a screen rather than resolved across a table.

This article attempts to examine that human dimension through the lens of ODR practice in India: the emotions that disputants bring into the virtual hearing room, the trust deficits that pervade online commercial interactions, the specific challenges posed by India’s linguistic diversity and digital divide, and the institutional rewards that draw practitioners toward this evolving field.

### **The Statutory Framework: A Brief Survey**

The Arbitration and Conciliation Act, 1996, modelled largely on the UNCITRAL Model Law, has been progressively amended to accommodate online processes. The 2019 Amendment introduced the concept of an “Arbitration Council of India” and streamlined timelines for arbitral awards, while Section 7 of the Act recognises arbitration agreements in electronic form. Section 85B of the IT Act, 2000 further validates electronic contracts and signatures, lending enforceability to agreements reached in online mediation.

The Consumer Protection Act, 2019, through Section 74, mandates the establishment of Consumer Mediation Cells at district, state, and national levels. The Central Consumer Protection Authority has actively encouraged the use of the National Consumer Helpline and digital platforms for early-stage dispute resolution. The Permanent Lok Adalats under the Legal Services Authorities Act, 1987, have also been increasingly exploring online formats, particularly in the aftermath of the COVID-19 pandemic, which forced an unprecedented digitalisation of the Indian justice system.

The Supreme Court’s suo motu orders during the pandemic authorised the conduct of court proceedings through video conferencing, normalising the idea of “virtual justice” in the Indian judicial consciousness. The e-Courts Mission Mode Project, now in its third phase, is building the infrastructural backbone for a fully integrated digital dispute resolution ecosystem.

Despite this architecture, there remains a notable lacuna: India does not yet have a standalone ODR statute. The reliance on dispersed, sector-specific provisions creates uncertainty about the enforceability of ODR outcomes in certain categories of disputes, particularly those involving international parties or

complex multi-jurisdictional questions. This statutory incompleteness is one of the structural challenges that ODR practitioners in India must navigate daily.

### **The Human Factor: Emotion, Anonymity, and the Indian Disputant**

Much of the theoretical scepticism toward ODR rests on the assumption that the digital medium strips dispute resolution of its essential humanity — that without eye contact, physical proximity, and the social rituals of face-to-face interaction, parties cannot truly be heard or understood. This concern is not unfounded. Yet practitioners who have worked extensively in both offline ADR and ODR settings consistently report that the human factor does not disappear in online processes; it merely transforms.

Indian ODR practitioners report a pattern that has been observed in online dispute resolution globally: disputants tend to express stronger negative emotions in their initial written communications than they might in a physical hearing room. This phenomenon, sometimes described in psychological literature as the “online disinhibition effect,” operates with particular intensity in the Indian context, where cultural norms around direct confrontation are complex and often context dependent.

In many Indian communities, direct expression of anger or accusation toward a stranger in a public or semi-formal setting carries significant social stigma. The face-to-face mediation environment, presided over by a respected neutral, often functions as a social constraint on the most aggressive forms of emotional expression. Online, that constraint is substantially reduced. Disputants who would hesitate to make harsh accusations in a physical room may do so freely in a typed submission, particularly when mediated through the relative anonymity of an email thread or an ODR platform.

Practitioners working with platforms such as Sama, Presolv360, and various court-annexed ODR systems have observed that opening statements in online mediations are frequently more adversarial in tone than their offline counterparts. Reframing this hostility — translating it into the language of interests and needs — is one of the first and most important tasks of the ODR neutral.

What distinguishes the Indian context is that this emotional escalation often overlaps with issues of dignity and honour (izzat) that carry enormous social weight. A business dispute between two traders from the same community may carry dimensions of reputational harm that are not immediately apparent from the surface content of the complaint. ODR neutrals in India must cultivate sensitivity to these cultural registers, even when they are not made explicit in writing.

A foundational challenge for ODR in India is the extraordinary linguistic diversity of the country. India has 22 officially recognised languages under the Eighth Schedule of the Constitution and hundreds of dialects spoken across its regions. The majority of ODR platforms currently operate primarily in English, which is still the dominant language of commerce and law in urban India. However, a substantial proportion of potential ODR users — particularly small traders, agricultural disputants, and rural consumers — are not comfortable expressing themselves in English and may struggle even with Hindi.

This communicative inequity creates a specific form of inequality in ODR. When a party cannot articulate its grievances fluently in the language of the platform, its emotions and interests are systematically underrepresented. The power imbalance this creates is not merely inconvenient; it can compromise the fundamental fairness of the ODR process.

Practitioners report that this challenge requires proactive intervention. Some platforms have begun offering regional language interfaces, and skilled ODR neutrals work to create space for parties to express themselves in their preferred language, using interpreters where necessary. The asynchronous nature of many ODR processes — where parties communicate through written messages separated by time rather than in real-time — can actually be an advantage here, as it allows parties to compose their thoughts carefully and, if necessary, seek assistance before submitting their statements.

One of the most significant challenges reported by ODR practitioners is the risk of disputant dropout — what might be called the “online equivalent of walking out.” In a physical mediation, leaving requires a deliberate physical act that carries social cost. Online, a party can disengage simply by not responding to messages. There is no lost face, no awkward departure from the room.

Indian ODR practitioners report that this dropout risk is especially acute in the early stages of the process, when parties have not yet developed a sense of investment in the ODR forum, and during periods of heightened frustration. Strategies for mitigating this risk drawn from practitioner experience include explicit and repeated acknowledgement of the parties’ emotions, frequent summary statements that remind parties of what has been achieved and what remains to be resolved, and clear communication about the voluntary and empowering nature of the process.

Reminding an Indian disputant, for instance, that no settlement can be imposed upon them without their consent, and that the process is designed to give them a full voice, can be particularly effective in communities where legal processes have historically been associated with powerlessness and elite capture.

### **The Problem of Digital Dispute Resolution in India**

If emotion is the first challenge of ODR practice, trust is the second and perhaps more profound one. Trust — between parties, between parties and the neutral, and between parties and the ODR system itself — is the foundation upon which any successful dispute resolution depends. In the Indian ODR context, this trust problem operates at multiple levels simultaneously.

Many disputes that come before ODR platforms in India arise from transactions between parties who have never met in person — e-commerce buyers and sellers, borrowers and digital lenders, insurance claimants and aggregators. When the transaction itself was mediated by technology, and when the dispute has already generated feelings of betrayal or fraud, the default posture of each party toward the other is one of deep suspicion.

Indian consumer disputes, in particular, are often coloured by a perception — sometimes accurate — that large corporate entities operate in bad faith, exploiting the information asymmetry and the prohibitive cost of legal redress to avoid accountability. ODR practitioners working in the consumer space must therefore work to rehumanise the institutional party in the eyes of the aggrieved consumer, and simultaneously to help the institutional party appreciate the legitimate grievance that underlies what may appear to be a vexatious complaint.

The two forms of trust identified in the conflict resolution literature are identification-based trust (IBT), which rests on empathy and relationship, and calculus-based trust (CBT), which rests on the rational

calculation of consequences. They are both relevant here, but their relative applicability varies with the nature of the dispute. For a single commercial transaction, where no ongoing relationship exists, CBT approaches that build in clear compliance incentives and enforcement mechanisms are more likely to be effective. For disputes within ongoing relationships — between landlords and tenants, employers and employees, neighbours and communities — relationship-building interventions that foster genuine empathy may be more durable.

### **Institutional Trust and the Legitimacy of ODR**

Beyond interpersonal trust, Indian ODR practitioners must contend with a broader deficit of institutional trust in online dispute resolution as such. For many Indian citizens, justice is still conceptually associated with the physical authority of the court — the judge on the dais, the stamp of the court seal, the finality of an order that can be physically enforced. The idea that a binding resolution can emerge from an exchange of messages on a digital platform strikes many users as inherently less legitimate.

This perception is not irrational. The enforceability of ODR settlements under Indian law remains somewhat uncertain in the absence of a dedicated ODR statute. While mediation agreements can in principle be enforced as contracts under Section 74 of the Consumer Protection Act and arbitral awards are enforceable under the Arbitration Act, the legal literacy required to navigate these pathways is not equally distributed.

ODR practitioners can address this trust deficit in part by transparency — explaining the legal basis for the enforceability of ODR outcomes, providing clear written records of proceedings and settlements, and connecting parties to legal aid resources where necessary. The ODR neutral's own credibility and perceived neutrality are also crucial; practitioners who can demonstrate proper credentials, institutional affiliations, and a transparent approach to the mediation process are more likely to inspire the confidence of sceptical parties.

## **CHALLENGES AND REWARDS OF ODR PRACTICE IN INDIA**

### **A. The Digital Divide and Access**

Any honest account of ODR practice in India must confront the digital divide. While India had approximately 900 million internet users as of 2024, internet penetration in rural areas remains significantly lower than in urban centres, and the quality of connectivity varies enormously across the country. A mediation platform that requires stable high-bandwidth video conferencing is effectively unavailable to a large swath of the population for whom ODR is most urgently needed.

Practitioners and platform designers are increasingly recognising that ODR in India cannot be modelled on the assumptions of high-income, high-connectivity economies.

Asynchronous, text-based processes that function on low-bandwidth connections; voicenote interfaces that reduce the literacy barrier; mobile-first platforms designed for smartphone access rather than desktop — these are the adaptations that the Indian ODR ecosystem requires.

### **B. Rewards: Access to Justice and the Practitioner's Motivation**

Despite these challenges, ODR practitioners in India consistently report a profound sense of purpose and reward in their work. The ability to help a small trader in a remote district resolve a payment dispute

with an urban supplier — a dispute that the trader could never have pursued through conventional litigation — represents a genuine expansion of the justice system’s reach.

The asynchronous format of many ODR processes, which allows practitioners to work flexibly across time zones and locations, has made ODR practice particularly attractive to legal professionals who combine it with other commitments, as well as to semi-retired practitioners and those in geographically constrained circumstances. Several practitioners have noted the “laboratory” quality of online dispute resolution — the written record it produces creates unique opportunities for reflection, self-assessment, and the systematic improvement of technique that are more difficult to achieve in the ephemeral oral interactions of a traditional mediation room.

### **C. Professional Isolation and the Need for Community**

A challenge that receives less attention in the literature, but that Indian ODR practitioners frequently raise, is the experience of professional isolation. Dispute resolution has historically been a socially embedded practice, conducted in shared professional spaces — courthouses, ADR centres, law chambers — where practitioners can exchange experiences, seek informal advice, and build the collegial relationships that sustain professional identity. The ODR practitioner, working from a home office or a café, lacks these ambient professional connections.

Building professional community is therefore an active task for ODR practitioners, not a passive benefit of the practice context. Organisations such as the Indian Institute of Arbitration and Mediation (IIAM), the Mediation and Conciliation Project Committee of the Supreme Court, and the newly established Mediators of India have a critical role to play in providing this community infrastructure.

### **ADVICE FOR EMERGING ODR PRACTITIONERS IN INDIA**

Drawing upon practitioner accounts and the foregoing analysis, several practical observations may be offered to those entering the Indian ODR field:

First, cultural competence is not optional. The Indian disputant brings to the online mediation room a complex of cultural assumptions about hierarchy, honour, and the meaning of concession that are not always legible in the written word. The effective ODR neutral must cultivate sensitivity to these registers and must resist the temptation to impose a culturally alien framework of “rational interest” onto disputes that are, at their heart, about dignity.

Second, the written word is both tool and trap. Asynchronous, written ODR processes allow for reflection and precision but also for misunderstanding and misattribution. Practitioners must develop explicit skills of online communication — clarity, warmth, careful framing — and must recognise when a dispute has reached a point at which written communication is insufficient and a phone or video call is required.

Third, technological literacy cannot be assumed on either side of the table. Practitioners must be prepared to support parties in using the platforms through which ODR is conducted and must design processes that accommodate varying levels of digital literacy.

Fourth, the enforceability of outcomes must be addressed proactively. Parties who are not confident that a settlement reached through ODR will be honoured and, if necessary, enforced, will not invest genuinely in the process. Practitioners must be conversant with the legal mechanisms for enforcement available in their area of practice and must communicate these clearly to the parties.

## **CONCLUSION**

The integration of Online Dispute Resolution into India's justice system is no longer a question of "whether" but of "how." The statutory architecture is in place, the platforms are emerging, and the COVID-19 pandemic has irrevocably normalised virtual proceedings. What remains to be built is the human infrastructure — the trained, culturally competent, technologically literate practitioners who will make ODR a genuinely accessible and just alternative for India's millions of disputants.

This requires sustained investment in training, credentialing, and community-building for ODR practitioners; continued legislative attention to the enforceability and governance of ODR outcomes; and a commitment from platform designers and institutional stakeholders to centre the needs of the most marginalised users — those for whom ODR is not a convenience but a necessity.

The Online practice, for all its limitations, can be a window to justice. Ensuring that it functions as such for every Indian citizen — regardless of language, location, or economic means is the defining challenge and the defining opportunity of ODR practice in India today.

## **REFERENCES**

1. Arbitration and Conciliation Act, 1996 (as amended by the Arbitration and Conciliation (Amendment) Act, 2019).
2. Consumer Protection Act, 2019.
3. Information Technology Act, 2000.
4. Legal Services Authorities Act, 1987.
5. NITI Aayog. Designing the Future of Dispute Resolution: The ODR Policy Plan for India. New Delhi: Government of India, 2021.
6. National Judicial Data Grid (NJDG). Case Pendency Statistics. Available at: <https://njdg.ecourts.gov.in>.
7. Supreme Court of India. Report of the Expert Committee on Mediation (Justice S.A. Bobde Committee). 2020.
8. Katsh, E., and Rabinovich-Einy, O. Digital Justice: Technology and the Internet of Disputes. New York: Oxford University Press, 2017.
9. Rainey, D., Katsh, E., and Rule, C. ODR: Theory and Practice (2nd ed.). The Hague: Eleven International Publishing, 2021.
10. Sander, F., and Goldberg, S. "Fitting the Forum to the Fuss: A User-Friendly Guide to Selecting an ADR Procedure." *Negotiation Journal*, 1994, 49, 61–66.
11. Susskind, R. *Online Courts and the Future of Justice*. Oxford: Oxford University Press, 2019.

12. Varghese, B. "ODR in India: Opportunities and Challenges." *Indian Journal of Arbitration Law*, 2022, 11(1), 45–68.
13. Law Commission of India. Report No. 188: Proposals for Constitution of Hi-Tech FastTrack Commercial Divisions in High Courts. 2003.
14. Ministry of Law and Justice, Government of India. National Policy and Action Plan for Implementation of *Legal Aid Schemes*. 2015.

