



Online Dispute Resolution (ODR)

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Abstract

The evolution of Online Dispute Resolution (ODR) marks a transformative development in contemporary legal systems, offering an innovative framework for resolving disputes beyond traditional courtrooms. Among various ODR methods, mediation has emerged as a particularly effective tool, especially in the context of trade and commercial conflicts. This paper critically examines the growing relevance of online mediation and its integration into both private and institutional mechanisms. With increasing globalization, corporate and commercial mediation is becoming a preferred choice for businesses seeking faster, confidential, and cost-effective dispute resolution. The study presents a comparative analysis of global trends in online mediation, focusing on jurisdictions such as Singapore, the United Kingdom, and Switzerland, and juxtaposes them with the evolving scenario in India.

A significant focus is placed on institutional online mediation, with key institutions like the Singapore International Commercial Court (SCIA), the London Court of International Arbitration (LCIA), and the Indian Institute of Arbitration and Mediation (IIADR) leading the effort to standardize and professionalize online mediation processes. The paper further analyses the Mediation Act, 2023, which plays a pivotal role in legally recognizing and regulating mediation in India, including its online dimensions. This legislative reform has provided much-needed procedural clarity and legitimacy, encouraging wider adoption of mediation platforms.

Despite these advancements, several challenges persist, including technological disparities, concerns about cybersecurity and confidentiality, and limited awareness in rural and underserved areas. The research concludes by offering practical suggestions and best practices to enhance the effectiveness of online mediation. These include increasing digital literacy, fostering public-private institutional collaboration, adopting international protocols, and improving infrastructure. By presenting a holistic framework, this study aims to reinforce online mediation as a reliable, accessible, and future-ready dispute resolution mechanism in India and beyond.

Introduction

The transformative impact of digital technologies on the architecture of global commerce is both profound and far-reaching. The proliferation of e-commerce platforms, digital financial services, and cross-border supply chain integrations has drastically altered the way trade is conducted across the world. Businesses, irrespective of size or geography, are now engaged in instantaneous and often complex international transactions, creating a digitally interconnected commercial ecosystem. However, this digital boom has been accompanied by an increase in disputes arising from contractual inconsistencies, jurisdictional ambiguities,

payment defaults, intellectual property breaches, and regulatory conflicts, especially in cross-border settings.

In this context, traditional dispute resolution mechanisms—primarily litigation—have proven increasingly inadequate. Litigation is often time-consuming, procedurally rigid, expensive, and territorially constrained. These limitations have catalysed the emergence and growth of Online Dispute Resolution (ODR), an innovative mechanism that leverages digital platforms and communication tools to facilitate the resolution of disputes without the need for physical presence or formal court intervention. ODR encompasses several Alternative Dispute Resolution (ADR) methods such as arbitration, negotiation, and most importantly, mediation.

Mediation, as a cornerstone of ODR, provides a non-adversarial, party-driven, and cost-effective forum for resolving disputes. Its integration with digital technologies enhances its accessibility and efficiency, allowing parties from different jurisdictions to engage in constructive dialogue with the assistance of a neutral third-party mediator. Digital mediation is especially beneficial in resolving trade disputes, where preserving ongoing commercial relationships and reducing transaction-related friction are of paramount importance. The confidential and collaborative nature of mediation, coupled with the flexibility it offers in terms of process and outcome, makes it uniquely suited for trade-related disagreements where litigation could irreparably damage commercial rapport.

Furthermore, the adaptability of mediation to varied legal, cultural, and commercial contexts is a crucial asset in international trade, where parties often operate under different legal regimes and business norms. The increasing recognition of mediation through international instruments such as the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation, 2019) and the UNCITRAL Technical Notes on ODR (2017) underscores its growing legitimacy and utility in the global dispute resolution ecosystem.

This research paper endeavours to critically analyse the role of mediation within the broader ODR framework, with a particular emphasis on its application in trade-related disputes. It explores the procedural dynamics, legal infrastructure, and institutional support mechanisms that govern ODR-based mediation, along with comparative insights from jurisdictions actively adopting this method. The paper also seeks to assess the efficacy of ODR mediation in enhancing access to justice, reducing dispute resolution costs, and supporting the continuity and sustainability of trade relationships in an increasingly digitalized and globalized economic environment.

Online Dispute Resolution

The emergence of Online Dispute Resolution (ODR) platforms in India that reflect a paradigm shift in the resolution of commercial and civil disputes, particularly in an increasingly digitalized business environment. These platforms mainly integrate the traditional dispute Resolution mechanism- such as mediation, negotiation, and arbitration which help to advance the technologies, streamlining the procedure, reducing the time and the cost and enhance the accessibility¹. Through such integration of Online Dispute Resolution (ODR) platforms have carved a niche in resolving the high-volume and complex trade dispute efficiently². Prominent Indian platforms like JustAct, Presolv360, and sama are leading examples of this transformative development³.

JustAct

Founded by experience legal professionals, JustAct is its strategic integration of game theory and digital interfaces to facilities efficient, interest-based resolution Processes. The platform supports both fast-track and regular arbitration processes, offering customized timelines and procedural transparency, JustAct aims to bridge the gap between technological convenience and legally enforceable outcomes. It has been instrumental in resolving commercial, consumer, and property-related disputes through legally binding online arbitration

awards under the Arbitration and Conciliation Act, 1996⁴.

Presolv360

Presolv360 is another leading ODR platform in India, which positions itself at the intersection of law and technology⁵. The platform specializes in digitally resolving legal disputes through structured mediation and conciliation processes, offering tailored solutions for businesses, financial institutions, and individuals. It employs an AI-powered dashboard, real-time communication tools, and cloud-based document management to facilitate seamless dispute resolution. Presolv360 has received recognition from governmental bodies such as the Department for Promotion of Industry and Internal Trade (DPIIT) and is engaged in sector-specific dispute resolution, particularly in finance, consumer disputes, and commercial contracts⁶. Its approach is marked by speed, scalability, and confidentiality, allowing parties to settle disputes within days instead of months or years typical of traditional litigation.

Sama

Founded with a mission to democratize access to justice, Sama is one of India's most widely used ODR platforms⁷. It partners with legal professionals, arbitrators, mediators, and technology experts to offer high-quality, online mediation and arbitration services. Sama has collaborated with institutions such as ICICI Bank, HDFC, and Mahindra Finance, resolving thousands of disputes efficiently and cost-effectively. Notably, it was selected for a pilot project by the Department of Justice, Government of India, under the "Designing Innovative Solutions for Holistic Access to Justice in India" initiative. Sama's success lies in its ability to manage large-scale dispute resolution involving repetitive claims and financial disputes, often resolving cases in less than 30 days, thereby showcasing the transformative potential of digital ADR in commercial contexts.

¹ <https://justact.in>

² <https://presolv360.com>

³ <https://www.sama.live>

⁴ <https://justact.in>

⁵ Ministry of Law and Justice, The Mediation Act, 2023, No. 29, Acts of Parliament, 2023 (India), <https://egazette.nic.in>

⁶ https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements

⁷ Neha Pathakji, ODR in India: The Future of Access to Justice

These platforms exemplify the growing legitimacy and institutionalization of digital ADR mechanisms in India, especially in the domain of trade and commerce⁸. By fostering trust, neutrality, and enforceability in a virtual environment, they address some of the most pressing challenges in dispute resolution—backlog of cases, high litigation costs, and lack of timely redressal.

Private Mediators:

In the evolving landscape of Alternative Dispute Resolution (ADR) and online Dispute Resolution (ODR), private mediators play a crucial role in delivering tailored, efficient, and expertise-driven dispute resolution services. Unlike institutional mediation canter that operate under standardized procedures and frameworks, private mediators offer a more flexible and personalized approach, adapting their techniques and communication styles to suit the unique needs of disputing parties⁹.

Private mediators are often experienced legal professionals, retired judges, subject-matter experts, or certified ADR practitioners who have undergone specialized training in mediation, negotiation, and conflict resolution¹⁰. Their services span a wide spectrum of legal domains, including commercial, contractual, family, property, labour, employment, and intellectual property disputes. This sectoral specialization enhances the mediator's ability to understand the technicalities of the case, evaluate the underlying interests of both parties, and facilitate a more nuanced and efficient resolution process¹¹.

One of the significant advantages of engaging private mediators lies in the degree of procedural autonomy they offer. Parties may mutually agree on the choice of mediator, the mediation rules, language, venue (or virtual platform), timelines, and confidentiality clauses. This contractual freedom aligns with the party autonomy principle central to ADR and enhances satisfaction with the mediation process and outcome. The customized nature of private mediation is particularly advantageous in sensitive disputes—such as family or employment matters—where our emotional, relational, or reputational considerations may be involved.

Moreover, private mediators contribute significantly to ODR mechanisms by offering their services through online platforms or independently via secure digital tools (e.g., video conferencing, document-sharing portals, and online scheduling systems). Many private mediators are now listed on ODR platforms such as Sama¹², Presolv360, or JustAct¹³, while others offer services directly through their own websites or affiliations with law firms and mediation councils¹⁴¹⁵.

⁸ Pratik Datta, Online Dispute Resolution in India: Role of Private Platforms and Future Pathways, Vidhi Centre for Legal Policy Report (2022), <https://vidhilegalpolicy.in/reports/odr-india>

⁹ Henry Brown & Arthur Marriott, ADR Principles and Practice

¹⁰ Amy J. Schmitz, Expanding Access to Remedies through E-Court and ODR Strategies

¹¹ Id. at 105–06.

¹² Sama: The ODR Platform for the New Age, Sama, <https://www.sama.live>

¹³ JustAct Online Dispute Resolution, JustAct, <https://justact.in>

The credibility and effectiveness of private mediators are often reinforced by their certifications from reputable bodies such as the International Mediation Institute (IMI), the Mediation and Conciliation Project Committee (MCPC) of the Supreme Court of India, or private professional organizations like Chartered Institute of Arbitrators (CIArb). Such affiliations not only validate the mediator's competence but also ensure adherence to ethical standards and procedural integrity¹⁶.

Corporate and Commercial Global Perspective on Online Dispute Resolution (ODR)

The globalization of trade and commerce has necessitated the development of dispute resolution mechanisms that are not only effective but also agile, economical, and borderless. In this context, Online Dispute Resolution (ODR) has emerged as a transformative innovation in the global legal and commercial landscape. The corporate and commercial sectors—comprising multinational enterprises, financial institutions, technology firms, and e-commerce platforms—have increasingly turned to ODR as a preferred mechanism for resolving disputes that arise in a transnational, digital, and time-sensitive environment.

1. Corporate Adoption of ODR Mechanisms

ODR has gained significant traction among corporate entities due to its inherent advantages over traditional litigation and even conventional Alternative Dispute Resolution (ADR). These advantages include reduced litigation costs, faster resolution timelines, greater confidentiality, and the ability to resolve disputes across jurisdictions without the physical presence of parties. Large corporations such as eBay, PayPal, and Amazon were early adopters of automated dispute resolution models, particularly for customer and seller disputes. For example, eBay's ODR system, in partnership with the Resolution Center, successfully resolved over 60 million disputes annually through an automated, three-tiered mechanism of negotiation, mediation, and escalation¹⁷.

The World Bank and UNCITRAL have consistently recognized the potential of ODR in promoting ease of doing business by reducing contractual enforcement barriers in cross-border trade. International business stakeholders now increasingly incorporate ODR clauses in commercial contracts, particularly in industries where supply chain continuity and partner relationships are pivotal.

¹⁴ Mediator Certification Standards, Int'l Mediation Inst., <https://imimediation.org>

¹⁵ Mediation and Conciliation Project Committee (MCPC), Supreme Court of India, <https://main.sci.gov.in/mcpc>

¹⁶ Mediation Act, No. 4 of 2023, Acts of Parliament, 2023 (India)

¹⁷ ulia Hörnle, 'Cross-Border Online Dispute Resolution: Challenges and Opportunities' (2016) 12(1) International Journal of Law and Information Technology 99, 102–105.

2. Commercial Disputes and Cross-Border Transactions

In cross-border commercial transactions¹⁸, parties often face challenges related to differing legal systems, enforcement hurdles, linguistic barriers, and jurisdictional conflicts. ODR serves as a neutral and technology-enabled platform to mitigate these risks by offering procedures that are universally accessible and linguistically adaptable. For instance, UNCITRAL's Technical Notes¹⁹ on ODR (2017) offer a model framework for conducting ODR in international disputes, emphasizing fairness, due process, and enforceability²⁰.

In response to these developments, several international arbitration and mediation institutions such as the International Chamber of Commerce (ICC), the Singapore International Mediation Centre (SIMC), and the American Arbitration Association – International Centre for Dispute Resolution (AAA-ICDR) have integrated digital infrastructure into their dispute resolution services. These include virtual hearings, secure document repositories, asynchronous communication tools, and AI-enabled case management systems²¹.

3. Legal Infrastructure and International Instruments

The global acceptance of ODR is further reinforced by emerging legal instruments such as the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation, 2019). This Convention enables the cross-border enforcement of settlement agreements resulting from mediation, which can be conducted through ODR platforms. As of 2025, over 60 countries have signed the Convention, signalling a shift toward mediation-centric, technology-enabled dispute resolution frameworks²².

In the European Union, the EU ODR Regulation (Regulation (EU) No 524/2013) mandates the establishment of an online platform for resolving consumer disputes arising from online transactions, reflecting a regional effort to institutionalize ODR at the commercial level²³. Similarly, jurisdictions such as Singapore, the United Kingdom, and Canada have launched national initiatives to promote digital dispute resolution in both B2B and B2C contexts.

4. Role of Technology in Corporate ODR Practices

Technological innovation plays a central role in enabling and advancing ODR systems within the corporate sphere. Artificial Intelligence (AI), Natural Language Processing (NLP), Blockchain, and Cloud Computing have revolutionized the way disputes are managed, negotiated, and resolved. AI-driven tools now assist in triaging cases, identifying settlement possibilities, and even drafting preliminary settlement proposals²⁴. In high-volume, low-value disputes (e.g., telecommunications or fintech), automated resolution processes drastically reduce human resource costs while maintaining a high-resolution rate.

Blockchain-based smart contracts also present a future-forward use of ODR, wherein embedded dispute resolution clauses can automatically trigger predefined resolution steps in case of contract breaches. Platforms like Kleros, which utilize blockchain technology and crowdsourced arbitration, are exploring decentralized models of ODR for commercial applications²⁵.

¹⁸ *ibid*; see also World Bank Group, Doing Business Report 2020 (World Bank Publications 2020)

¹⁹ UNCITRAL, Technical Notes on Online Dispute Resolution, UN Doc A/CN.9/984 (2017) <https://uncitral.un.org>

²⁰ <https://iccwbo.org>

²¹ International Chamber of Commerce, 'ICC Guidance Note on Possible Measures Aimed at Mitigating the Effects of the COVID-19

Pandemic' (2020) <https://iccwbo.org>

²² United Nations Convention on International Settlement Agreements Resulting from Mediation

²³ Regulation (EU) 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes

²⁴ Ethan Katsh and Orna Rabinovich-Einy, Digital Justice: Technology and the Internet of Disputes

5. Challenges and Considerations

Despite its many advantages, the corporate use of ODR globally is not without challenges. Concerns related to data privacy, enforceability of outcomes, due process, accessibility in developing jurisdictions, and lack of harmonized legal standards continue to pose obstacles²⁶. Corporations must carefully assess the regulatory environments in jurisdictions where they operate, and ensure that ODR platforms comply with international data protection frameworks like the GDPR or India's Digital Personal Data Protection Act, 2023.

Moreover, ODR's effectiveness hinges on user trust—especially in sectors handling high-stake commercial matters. Transparency in procedure, quality of neutrals, and enforceability of awards or settlements remain essential to maintaining corporate confidence in ODR mechanisms.

Institution Mediation: -

In the global evolution of Online Dispute Resolution (ODR), institutional mediators have emerged as central actors in providing structured, standardized and reliable platforms for dispute resolution across various domains—particularly in commercial, consumer, and cross-border contexts. Unlike private mediators who operate independently or through informal networks, institutional mediators are affiliated with formal ADR institutions that offer ODR services under recognized procedural rules and administrative support systems.

These institutions ensure the professionalization of mediation, guarantee procedural fairness, and enhance the legitimacy and enforceability of outcomes. Institutional mediation has been particularly instrumental in international trade, banking and finance, consumer rights, and cross-border e-commerce, where complexity, legal diversity, and the need for neutrality necessitate formal dispute resolution frameworks.

1. Defining Institutional Mediation in the ODR Context

Institutional mediators operate under the aegis of ADR organizations, such as arbitral institutions, mediation centres, legal service authorities, or government-backed ODR portals, which provide an administrative framework, pre-established rules of procedure, a code of conduct, and a curated panel of certified mediators²⁷. These mediators are assigned through cases based on domain expertise, language skills, and neutrality considerations.

The role of the institution includes not only assigning mediators but also overseeing the entire dispute resolution lifecycle—from where they intake the case and management to settle the documentation and feedback mechanisms. This centralized oversight and enhances the transparency, accountability, data protection, and standardization, which are critical in digital dispute environments.

²⁵ <https://kleros.io>

²⁶ European Commission, 'General Data Protection Regulation (GDPR)' <https://gdpr.eu>

²⁷ Thomas Schultz, 'Institutionalizing Online Dispute Resolution: A Public Policy Perspective' (2004) 6(1) Information & Communications Technology Law

2. Key Institutional ODR Providers and Their Role

Several global and regional institutions have developed robust ODR mechanisms that integrate institutional mediation services:

Singapore International Mediation Centre (SIMC): SIMC has adapted its mediation rules for online processes and offers hybrid dispute resolution services (Arb-Med-Arb). With institutional credibility and a diverse panel of mediators, it plays a pivotal role in resolving high-value cross-border disputes. During the COVID-19 pandemic, SIMC launched a Virtual Mediation Protocol, allowing seamless remote dispute resolution²⁸.

International Chamber of Commerce (ICC): Through the ICC Mediation Rules, the institution supports online mediation as part of its commitment to flexible ADR. The ICC International Centre for ADR facilitates the entire process, including appointment of mediators, logistical support, and digital infrastructure.

American Arbitration Association – International Centre for Dispute Resolution (AAA- ICDR): The AAA offers online mediation services through a secure digital portal, particularly in commercial and construction disputes. It combines institutional oversight with flexible online sessions, offering confidentiality and enforceability.

India's Consumer Mediation Cells and ODR Platforms: Following the Consumer Protection Act, 2019, mediation cells attached to consumer commissions now facilitate online mediation. These are supported by institutional panels of mediators under the supervision of the Central Consumer Protection Authority (CCPA) and national digital frameworks like ODR India.

European Union ODR Platform: Established under Regulation (EU) No. 524/2013, the platform offers institutional mediation support for consumer disputes across EU member states. Disputes are referred to designated ADR bodies that mediate through secure online interfaces.

3. Advantages of Institutional Mediators in ODR

Institutional mediators provide several strategic benefits in the context of online mediation, including:

Credibility and Trust: Institutions provide a vetted panel of mediators, ensuring neutrality, ethical standards, and domain-specific expertise.

Procedural Uniformity: Institutions enforce consistent rules, timelines, and procedures, minimizing procedural irregularities or ambiguities.

Technological Infrastructure: Institutional platforms are often equipped with secure video conferencing tools, encrypted communication systems, and digital documentation portals, ensuring security and efficiency.

²⁸ UNCITRAL, Technical Notes on Online Dispute Resolution, UN Doc A/CN.9/984 (2017); Singapore International Mediation Centre, 'Virtual Mediation Protocol' <https://simc.com.sg> accessed 21 April 2025; European Commission, 'EU Online Dispute Resolution Platform' <https://ec.europa.eu/consumers/odr>

Global Recognition: Settlements reached under institutional mediation are more likely to be accepted or enforced across jurisdictions due to the institution's standing and procedural compliance.

Administrative Support: Institutions assist parties with scheduling, translation, documentation, and logistical arrangements, relieving them from operational burdens.

4. Integration with Legal Frameworks

Institutional mediators are crucial in integrating ODR into national and international legal systems. For instance, the Singapore Convention on Mediation (2019) recognizes mediated settlement agreements, including those reached via institutional mediation online²⁹. Similarly, India's Mediation Act, 2023 promotes court-annexed and pre-litigation mediation, including online mediation facilitated by recognized institutions and mediators certified by mediation councils³⁰.

Furthermore, courts globally—including the UK Civil Justice System, Singapore's Community Justice Centre, and U.S. State Courts—increasingly refer commercial and civil disputes to institutional mediators operating through digital platforms, thereby mainstreaming ODR in formal legal structures.

Online Mediation in India

The emergence of online mediation in India represents a significant step toward democratizing access to justice and streamlining dispute resolution processes in a vast and diverse legal system. Historically rooted in India's tradition of informal and community-based conflict resolution, mediation has gained formal legal recognition through judicial pronouncements³¹ and legislative developments³². The advent of digital

technologies and the rise in commercial and civil disputes—particularly in the wake of the COVID-19 pandemic—have accelerated the institutionalization of online mediation as a viable and preferred method for resolving conflicts³³. The enactment of the Mediation Act, 2023, has provided a comprehensive statutory framework that recognizes online mediation as an equal counterpart to physical mediation proceedings. Under Section 32 of the Act, “mediation may be conducted online by the use of electronic form or computer networks³⁴,” and such proceedings are deemed valid, enforceable, and binding in the same manner as traditional mediation outcomes³⁵. This statutory endorsement has catalysed the expansion of ODR (Online Dispute Resolution) platforms such as Sama³⁶, Presolv360³⁷, and Just Act, which now host thousands of online mediation cases across domains like consumer grievances, banking and financial disputes, employment conflicts, and contractual disagreements.

²⁹ United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention)

³⁰ UN Doc A/RES/73/198 (2019); Mediation Act 2023

³¹ Salem Advocate Bar Association v Union of India

³² Code of Civil Procedure (Amendment) Act 1999 (India), s 89.

³³ Srikrishna Deva Rao and Pradyumna Borah, ‘Online Dispute Resolution and the Indian Judiciary

³⁴ Mediation Act 2023 (India) No 4, Acts of Parliament, 2023, s 32.

³⁵ <https://legislative.gov.in>

³⁶ <https://sama.live/about-us>

³⁷ <https://presolv360.com> Judicial support has further reinforced the legitimacy of online mediation in India. The Supreme Court of India, in various judgments, has emphasized the importance of ADR and endorsed technology-driven resolution mechanisms to reduce the burden on courts and improve access to justice. The Delhi High Court Mediation and Conciliation Centre (Samadhan)³⁸ and Tamil Nadu Mediation and Conciliation Centres have introduced online mediation modules, particularly for court-referred pre-litigation disputes. Moreover, the Reserve Bank of India (RBI) and financial regulators have encouraged banks and non-banking financial institutions to adopt ODR mechanisms for faster resolution of disputes with customers, often including online mediation as the first tier of resolution. These developments align with the broader policy goals of Digital India and Ease of Doing Business, positioning online mediation as a modern, cost-effective, and scalable dispute resolution strategy that is both procedurally efficient and substantively just. Nevertheless, challenges such as digital literacy, language barriers, and regulatory oversight remain pertinent, necessitating further investment in digital infrastructure, mediator training, and public awareness initiatives.

Institutional Online Mediator: -

In the realm of cross-border commercial disputes, institutional mediation facilitated through online platforms has become a cornerstone of modern dispute resolution. Institutions such as the Singapore International Arbitration Centre (SIAC), the London Court of International Arbitration (LCIA), and the International Centre for Dispute Resolution (ICDR), functioning under the American Arbitration Association (AAA), have not only institutionalized mediation practices³⁹ but have also actively incorporated technology-enabled systems to support Online Dispute Resolution (ODR)⁴⁰. These institutions provide a structured, rule-based, and technologically integrated approach to mediation, ensuring procedural consistency, neutrality, and enforceability across jurisdictions. Their adoption of online mediation mechanisms has significantly enhanced access to justice, especially in complex international commercial disputes that demand efficiency, confidentiality, and neutrality⁴¹.

1. Singapore International Arbitration Centre (SIAC) and Singapore International Mediation Centre (SIMC)

While SIAC is primarily an arbitration institution, its sister organization, the Singapore International Mediation Centre (SIMC), is a global leader in institutional mediation⁴². SIMC offers hybrid dispute resolution models like Arb-Med-Arb in collaboration with SIAC, allowing parties to seamlessly transition between arbitration and mediation⁴³. SIMC has been instrumental in promoting online mediation through its SIMC Virtual Mediation Protocol,

³⁸ <https://dhcmcc.nic.in>

³⁹ Thomas Schultz, Institutionalizing Online Dispute Resolution:

⁴⁰ UNCITRAL, Technical Notes on Online Dispute Resolution

⁴¹ SIMC' <https://simc.com.sg>

⁴² SIMC, 'Arb-Med-Arb Protocol' <https://simc.com.sg/arb-med-arb/>

⁴³ <https://simc.com.sg>

introduced during the COVID-19 pandemic to allow remote dispute resolution⁴⁴. This protocol outlines best practices for secure video conferencing, electronic document submission, and confidentiality in online sessions. SIMC mediators are drawn from an international panel of experienced professionals trained in resolving cross-border disputes with cultural sensitivity and domain expertise⁴⁵. The institution has played a pivotal role in implementing the Singapore Convention on Mediation, further reinforcing the enforceability of mediated settlement agreements achieved through online processes.

2. London Court of International Arbitration (LCIA)

The London Court of International Arbitration (LCIA), headquartered in London and operating globally, is one of the oldest and most prestigious ADR institutions. Although primarily known for arbitration, LCIA's mediation services are governed by the LCIA Mediation Rules, which allow for remote or online mediation proceedings⁴⁶. These rules explicitly permit the use of electronic communication, virtual meetings, and online document sharing to facilitate mediation, ensuring that parties can engage with mediators and each other without the need for physical presence. The LCIA Secretariat provides comprehensive administrative support, including the appointment of mediators from its distinguished international panel⁴⁷. The LCIA's shift toward digital dispute resolution is also reflected in its 2020 updates to procedural guidelines, which underscore the flexibility of online formats in responding to commercial disputes across time zones and legal systems. The institution's global recognition makes it a preferred choice for corporations seeking enforceable and neutral online mediation under English law or international commercial principles.

3. International Centre for Dispute Resolution (ICDR) – American Arbitration Association (AAA)

The International Centre for Dispute Resolution (ICDR), the international division of the American Arbitration Association (AAA), is a leader in offering comprehensive online mediation services to businesses, states, and individuals worldwide⁴⁸. ICDR's International Mediation Rules explicitly accommodate the use of technology and electronic communication throughout the mediation process. Its ODR services are supported by a robust digital infrastructure that includes secure online portals for case management, document exchange, mediator selection, and real-time virtual sessions. ICDR has developed a global panel of mediators with legal and commercial expertise in areas such as international trade, construction, IP, energy, and finance. The ICDR's mediation framework has been praised for its party-centric design, procedural flexibility, and enforceability of mediated outcomes under the New York Convention, where mediated settlements are embedded in arbitration processes or consent awards⁴⁹.

⁴⁴ Nadja Alexander, Institutional Mediation and its Interface with Online Dispute Resolution in Mohamed S Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), Online Dispute Resolution

⁴⁵ <https://www.lcia.org>

⁴⁶ <https://www.lcia.org>

⁴⁷ <https://www.lcia.org>

⁴⁸ <https://www.icdr.org>

⁴⁹ <https://www.icdr.org>

Challenges Faced in Online Dispute Resolution (ODR)

While Online Dispute Resolution (ODR) represents a transformative leap in access to justice and dispute resolution efficiency, its implementation is not without significant challenges⁵⁰. These obstacles span across legal, technological, procedural, and socio-cultural domains, often undermining the effectiveness, legitimacy, and enforceability of ODR processes—particularly in cross-border commercial contexts.

1. Lack of Uniform Legal Frameworks and Enforceability Issues

One of the most pressing challenges in ODR is the absence of a harmonized global legal framework for recognizing and enforcing online-mediated settlements. Unlike arbitration, which is governed by the widely accepted New York Convention, 1958, online mediation lacks a universally binding treaty until the recent adoption of the Singapore Convention on Mediation, 2019⁵¹, which is yet to see widespread ratification and domestic implementation. Inconsistencies in enforcement standards across jurisdictions create legal uncertainty for parties relying on online processes for dispute settlement. Versatile and responsive to emerging global legal trends.

2. Digital Divide and Technological Barriers

The digital divide—referring to unequal access to internet infrastructure, digital tools, and technological literacy—poses a substantial barrier to the universal application of ODR⁵². In developing nations and rural regions, limited internet connectivity and lack of secure digital devices hinder parties' ability to participate effectively in virtual mediation or arbitration.

This disparity undermines the principle of equal access to justice, particularly for economically or technologically disadvantaged parties.

3. Confidentiality and Data Security Concerns

ODR involves the exchange of sensitive legal, financial, and personal data over online platforms, raising concerns over data protection, cybersecurity, and confidentiality⁵³. A breach of data security may lead not only to a loss of trust in the ODR platform but also expose parties to reputational and commercial harm. The lack of clear global standards for digital confidentiality, especially in cross-border cases, further complicates the ability to ensure privacy across jurisdictions with different data protection laws (e.g., GDPR in the EU vs. weaker frameworks in many developing nations).

4. Limitations of Human Interaction and Trust Building

⁵⁰ Pablo Cortés, *The Law of Online Dispute Resolution*

⁵¹ United Nations Convention on International Settlement Agreements Resulting from Mediation

⁵² <https://www.oecd.org/digital/bridging-the-digital-divide.htm>

⁵³ Anjanette H Raymond and Scott J Shackelford, 'Technology, Ethics, and Access to Justice:

The absence of in-person interaction in online mediation or negotiation processes can impede the establishment of trust, empathy, and rapport between parties⁵⁴. Non-verbal cues, which play a critical role in negotiation dynamics, are often lost or diminished in virtual environments. This may lead to communication misinterpretation, reduced conciliatory behaviour, and difficulty in building consensus—especially in culturally sensitive or emotionally charged disputes.

5. Procedural and Jurisdictional Complexities

ODR often involves parties across different legal jurisdictions, creating issues of applicable law, procedural rules, and forum shopping. The absence of standardized ODR procedural rules means institutions must draft their own, which can lead to confusion or even conflicting procedural expectations. Jurisdictional challenges are particularly acute in consumer and e-commerce disputes, where parties may reside in different countries with divergent legal standards and no agreement on the applicable substantive or procedural law⁵⁵.

6. Lack of Qualified Online Mediators and Technical Training

Effective online mediation requires not only legal and negotiation expertise but also a high level of technological proficiency. Many mediators, especially those trained in traditional methods, may lack the digital literacy necessary to conduct proceedings through online platforms. This skill gap can diminish the quality and effectiveness of the mediation process⁵⁶. Moreover, the scarcity of training programs specifically focused on ODR further limits the availability of qualified professionals.

Online Mediation under the Mediation Act, 2023

The enactment of the Mediation Act, 2023 marks a watershed moment in India's alternative dispute resolution (ADR) landscape by offering statutory recognition and regulatory clarity to mediation as a formal method of resolving disputes. Notably, the Act pioneers the legislative acknowledgment of online mediation, reflecting the growing digitization of legal services and dispute resolution mechanisms. As businesses, individuals, and government bodies increasingly operate in the digital realm, the inclusion of online mediation within the statutory framework addresses a crucial gap in India's ADR ecosystem.

Statutory Recognition of Online Mediation

Section 32 of the Mediation Act, 2023⁵⁷ expressly defines online mediation as a process where mediation is conducted wholly or partly through electronic form or means of communication. This includes the use of video conferencing, email correspondence, secure

⁵⁴ Orna Rabinovich-Einy and Ethan Katsh, 'The New Courts

⁵⁵ Daniel Rainey, 'ODR and the Courts

⁵⁶ Srikrishna Deva Rao and Pradyumna Borah, 'ODR and the Indian Judiciary: Challenges and Opportunities

⁵⁷ Mediation Act 2023, s 32.

platforms, or any other digital interface enabling virtual interaction between the mediator and the disputing parties.

The Act provides that online mediation shall be governed by the same legal standards as physical mediation processes. As per Section 4(1), mediation can be initiated by agreement between parties, and Section 5 permits parties to undertake pre-litigation mediation through digital modes, making online mediation an accessible first step in the resolution of disputes. Furthermore, Section 19(2) allows the Mediation Council of India (MCI)⁵⁸ to frame regulations and guidelines to ensure the proper conduct, technological integrity, and data security of online mediation proceedings.

Procedural and Regulatory Safeguards

To ensure the confidentiality, neutrality, and enforceability of online-mediated settlements, the Act introduces a set of safeguards. Under Section 22⁵⁹, all communications, proposals, and admissions made during mediation—including online—are confidential and inadmissible in subsequent judicial proceedings. Section 24⁶⁰ emphasizes that the final mediated settlement, if signed by the parties and the mediator, is legally binding and enforceable as a decree of the court.

Moreover, the Mediation Council of India, established under Chapter VIII, is empowered to accredit online mediation service providers, set up a framework for training of mediators in digital competencies, and ensure adherence to standards on cybersecurity and ethical practice.

Access to Justice and Inclusion

By formalizing online mediation, the Act expands the scope of access to justice, particularly for individuals in remote locations, persons with disabilities, and small businesses. It significantly reduces logistical burdens, travel costs, and delays—challenges that previously limited the reach of traditional mediation. Importantly, this aligns with Article 39A⁶¹ of the Indian Constitution, which mandates the state to ensure that legal systems promote justice on a basis of equal opportunity.

Alignment with Global Standards

The Mediation Act, 2023, especially its recognition of online mediation, is broadly aligned with international standards such as the UNCITRAL Technical Notes on Online Dispute Resolution (2017)⁶² and the Singapore Convention on Mediation (2019)⁶³. Although India is yet to ratify the Singapore Convention, the Mediation Act positions the country for potential

⁵⁸ Mediation Act 2023, s 19(2).

⁵⁹ Mediation Act 2023, s 22.

⁶⁰ Mediation Act 2023, s 24

⁶¹ Constitution of India 1950, art 39A.

⁶² https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf

⁶³ https://treaties.un.org/pages/ViewDetails.aspx?chapter=22&clang=en&mtdsg_no=XXII-4&src=TREATY

accession by ensuring enforceability of mediated settlements, including those conducted online.

Challenges and Way Forward

Despite its progressive nature, the implementation of online mediation under the Act is not without challenges. Concerns around digital literacy, cybersecurity, platform standardization, and infrastructural readiness may hinder widespread adoption. The success of this legislative initiative depends on the robust regulation of online service providers, capacity-building of mediators, and awareness campaigns to promote digital ADR among the general public and legal practitioners⁶⁴.

Critical Analysis and Potential Gaps in the Legislation of Online Dispute Resolution (ODR)

The emergence of Online Dispute Resolution (ODR)⁶⁵ as a prominent mechanism for dispute settlement is a reflection of the shifting paradigms in legal practice brought about by technological innovation. Legislatures across jurisdictions have begun incorporating digital dispute resolution frameworks into their statutory systems. In India, the Mediation Act, 2023 signifies a commendable step in this direction by recognizing online mediation as a legitimate and enforceable method of resolving disputes. However, despite this progress, the legal infrastructure still reflects several critical gaps and limitations that require careful analysis and rectification.

1. Lack of Comprehensive ODR-Specific Framework

Although the Mediation Act, 2023 acknowledges online mediation under Section 32, it fails to establish a standalone, comprehensive regulatory framework specific to the unique nature of ODR. The legislation subsumes online mediation under the broader category of traditional mediation without delineating specific standards, protocols, or procedures tailored to digital environments. This generic approach may lead to procedural inconsistencies and legal ambiguities in application.

Unlike the UNCITRAL Technical Notes on ODR (2017)⁶⁶, which provide clear guidelines on digital interface management, data storage, and dispute resolution protocols, the Indian statute provides minimal technical detail or guidance for actual online implementation.

2. Insufficient Data Protection and Cybersecurity Provisions

⁶⁴ <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>

⁶⁵ Mediation Act 2023, s 32.

⁶⁶ https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf

One of the most significant vulnerabilities in India's legislative approach to ODR is the absence of explicit provisions ensuring cybersecurity and data privacy during online mediation proceedings. While confidentiality is addressed under Section 22 of the Mediation Act, it lacks enforceable safeguards or standards pertaining to encryption, data breach notifications, and third-party platform liability⁶⁷.

Given that online mediation involves the exchange of sensitive commercial and personal data, the lack of alignment with global privacy frameworks such as the EU's General Data Protection Regulation (GDPR) or even India's anticipated Digital Personal Data Protection Act, 2023, raises substantial concerns about trust and legitimacy⁶⁸.

3. No Uniform Criteria for Online Mediator Accreditation

The Act grants powers to the Mediation Council of India (MCI) to register and regulate mediators and service providers (Sections 29–31), but it does not prescribe uniform qualifications or training standards for online mediators⁶⁹. The digital nature of ODR requires not just legal knowledge but technological fluency, digital communication ethics, and cybersecurity awareness⁷⁰.

This lacuna risks undermining the quality and consistency of online mediation services, especially if traditional mediators, lacking technical proficiency, are permitted to conduct ODR without specific training or certification.

4. Absence of Procedural Autonomy for Cross-Border ODR

A fundamental challenge for online mediation in international trade disputes is jurisdictional conflict and the absence of procedural autonomy. The Mediation Act, 2023 does not adequately address conflict of laws⁷¹, choice of platform, or language and cultural barriers in cross-border ODR. It also lacks clarity on how foreign-seated online mediation settlements will be recognized and enforced within the Indian legal system, unless they are processed under international instruments such as the Singapore Convention on Mediation (2019), which India has yet to ratify⁷².

This gap limits the international commercial utility of India's ODR framework.

5. Limited Public Awareness and Accessibility

⁶⁷ Nehaa Chaudhari, 'Data Protection and ODR in India: Challenges in the Digital ADR Environment'

⁶⁸ General Data Protection Regulation (EU) 2016/679 (GDPR).

⁶⁹ Mediation Act 2023, ss 29–31.

⁷⁰ Sarabjeet Singh, 'The Tech Behind the Talk: Need for Cyber-Ethical Mediators in ODR'

⁷¹ Rishi Raj, 'International Online Mediation and the Limits of Indian Law' (2024) 3(1) International Journal of Arbitration, Mediation and Dispute Management 79

⁷² https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-4&chapter=22

Despite its benefits, ODR is still not accessible or understood by a large segment of the Indian population, particularly those in rural areas, marginalized communities, and small- scale businesses. The Mediation Act, 2023 does not address the need for public legal education, multilingual digital platforms, or accessibility standards for persons with disabilities¹. This exclusion risks entrenching existing justice gaps and reinforcing the digital divide.

Moreover, internet penetration and digital literacy remain uneven across India. According to the Internet and Mobile Association of India (IAMAI), nearly 45% of the rural population remains offline, further limiting the inclusivity of online mediation.



Conclusion

The digital transformation of global commerce has necessitated an equally innovative evolution in dispute

resolution mechanisms, leading to the emergence and expansion of Online Dispute Resolution (ODR) as a pragmatic response to the limitations of traditional litigation. Among the various forms of ODR, mediation stands out as a highly effective, consensual, and relationship-preserving process, especially in the context of cross-border and commercial disputes. Online mediation not only ensures accessibility and procedural efficiency but also embodies the collaborative ethos necessary for preserving long-term business relationships and reducing adversarial outcomes.

This research has demonstrated that institutions such as SIMC (Singapore International Mediation Centre), LCIA (London Court of International Arbitration), and ICDR (International Centre for Dispute Resolution) have integrated sophisticated digital platforms, flexible procedural rules, and international best practices to make online mediation both credible and enforceable. These global institutions have shown that when mediation is supported by well-defined procedural rules, secure digital infrastructure, trained mediators, and legal enforceability, it can rival the effectiveness of traditional in-person mechanisms.

The citations are provided in chronological order. OSCOLA uses footnotes as well as in-text citations

The text in bold will be used as in-text citation in the place where the number of footnote is present in the main text

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