

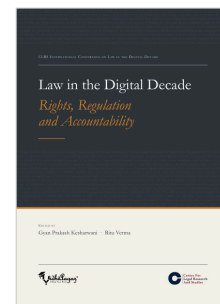
CHAPTER 15

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Karan Singh Gaur and Garima Yadav

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CHAPTER 15

Online Dispute Resolution and Technology in the Delivery of Justice

DR. KARAN SINGH GAUR* AND DR. GARIMA YADAV**

The administration and delivery of justice have been significantly transformed by the rapid development of digital technology, leading to the emergence of Online Dispute Resolution (ODR) as an innovative mechanism for resolving disputes efficiently and effectively. This article examines the extent to which ODR and emerging technologies can enhance access to justice while ensuring fairness, transparency, and procedural safeguards. The study adopts a doctrinal and analytical methodology, drawing upon primary legal sources, judicial decisions, statutory frameworks, policy documents, and secondary literature relating to ODR, e-governance, artificial intelligence, digital courts, and technology-enabled dispute resolution. It also examines recent developments in India, including online mediation, electronic filing, virtual courts, and technology-driven legal services.

The article argues that ODR has considerable potential to enhance access to justice by reducing geographical barriers, procedural delays, litigation costs, and the burden on conventional courts. Technology can facilitate faster communication, automated case management, online mediation, and simplified dispute-resolution processes, particularly in consumer, commercial, family, and small-value disputes. However, technological innovation alone cannot guarantee equitable access to justice. Challenges relating to the digital divide, data privacy, cybersecurity, algorithmic bias, technological literacy, confidentiality, and the enforceability of online outcomes may create additional barriers for vulnerable and digitally excluded groups. Therefore, the effective integration of technology into justice delivery requires a balanced framework that combines technological innovation with judicial oversight, procedural fairness, accessibility, and robust data-protection safeguards. The article concludes that ODR should complement, rather than replace, traditional justice mechanisms, thereby contributing to the development of a hybrid, accessible, and inclusive justice system capable of addressing the demands of an increasingly digital society.

Keywords: Online Dispute Resolution; Access to Justice; Artificial Intelligence; Digital Justice; E-Mediation.

1 INTRODUCTION

The way justice is administered and delivered is witnessing a significant global change. Traditional court systems, which relied on physical courtrooms, paper filings, and complicated rules, are increasingly feeling the pressure. In many areas, systemic delays, exorbitant legal costs, and physical distance create hurdles that make it difficult for ordinary people to seek timely justice. To tackle these challenges, technology is stepping in not just as a helpful tool, but as a transformative force that can redefine how disputes are resolved. One of the standout innovations in this space is Online Dispute Resolution (ODR), which represents a major shift towards making justice more accessible and less tied to physical locations.

ODR includes a broad range of dispute resolution procedures, such as arbitration, conciliation, mediation, and negotiation, which are supported by automated decision-support systems, digital tools, and telecommunications platforms. ODR has quickly spread into larger civil, commercial, consumer, and

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family law realms. It was first created to handle high-volume, low-value e-commerce disputes where traditional court procedures were functionally impracticable.

The degree to which ODR and related cutting-edge technologies improve access to justice while guaranteeing procedural justice, openness, and constitutional protections is examined in this paper. This study assesses legislative frameworks, court rulings, policy papers, and scholarly literature using a doctrinal and analytical methodology. The e-Courts Project, virtual courts, e-filing systems, and NITI Aayog's policy measures supporting ODR are among the recent advances in India that are highlighted.

In the end, this article makes the case that although ODR has enormous potential to democratize access to justice, technology integration cannot be seen as a cure-all. Complex normative issues, such as the digital divide, cybersecurity threats, algorithmic prejudice, and worries about consent and enforceability, are brought about by the growth of digital dispute resolution. Technology must be included in a well-balanced legal framework that gives judicial oversight, procedural justice, and institutional integrity first priority in order to stop ODR from producing new types of digital exclusion. In order to create a long-lasting hybrid dispute-resolution architecture, ODR should supplement rather than entirely replace conventional justice delivery methods.

2 THEORETICAL FOUNDATIONS AND CONCEPTUAL ARCHITECTURE OF ODR

2.1 Defining Online Dispute Resolution (ODR)

It is crucial to define the conceptual bounds of ODR in order to assess its legal effectiveness. ODR is a separate field that uses technology as an active structural participant rather than just Alternative Dispute Resolution (ADR) done online. Technology was famously envisioned by Ethan Katsh and Janet Rifkin as the “fourth party” in conflict resolution.¹ The claimant, the respondent, and an impartial third party (mediator or arbitrator) are the three parties involved in traditional ADR. Technology functions as a fourth party in ODR, actively influencing communication dynamics, overseeing procedures, evaluating data, and enabling settlement possibilities.

ODR mechanisms come in a variety of technological forms:

1. *Low-Tech ODR*: Electronic document sharing, audio-visual conferencing, and email are examples of facilitative communication tools.
2. *Medium-Tech ODR*: Integrated digital platforms that provide asynchronous communications, structured negotiation workflows, and automated intake.
3. *High-Tech ODR*: Sophisticated systems that assess dispute metrics, forecast results, or automate decision-making using artificial intelligence (AI), machine learning algorithms, natural language processing (NLP), and smart contracts.

2.2 Access to Justice: From Physical Presence to Functional Access

Historically, “access to justice” has been understood to mean having physical access to courts and legal counsel. But legal experts like Richard Susskind contend that a functional redefinition of access to justice

¹ Ethan Katsh & Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (Jossey-Bass, 2001).

is necessary.² The fair, timely, and reasonably priced settlement of their legal complaints is what citizens need, not actual courtrooms.

According to Marc Galanter, traditional litigation frequently fails the functional access test because “repeat players” have a structural advantage over “one-shooters.”³ To defeat individual or economically disadvantaged claimants, well-resourced corporate or institutional litigants take advantage of procedural delays, technical legality, and financial fatigue. By streamlining processes, reducing transaction costs, doing away with travel restrictions, and cutting down on time delays, ODR levels the playing field and operationalizes the fundamental rights protected by constitutional frameworks.

3 THE INDIAN CONTEXT: LEGISLATIVE FRAMEWORKS AND POLICY INITIATIVES

When it comes to incorporating technology into the administration of justice, India offers an interesting case study. With tens of millions of cases languishing in trial courts and High Courts, Indian institutions are using technology more and more to expedite the resolution of disputes.

3.1 The e-Courts Project and Virtual Courts

Through the e-Courts Integrated Mission Mode Project, the Supreme Court of India’s e-Committee established the fundamental framework for technology-enabled justice in India.⁴

The goals of Phases I and II were to digitize court documents, develop standard case management systems, set up e-filing portals, and implement teleconferencing capabilities throughout the country’s judicial complexes.

The introduction of Virtual Courts for some high-volume offenses, like traffic infractions and minor summary disputes, was a significant turning point. With no requirement for the litigant or attorney to be present in person, these virtual courts handle all court processes online, from the sending of summonses to the online plea of guilty and the payment of fines through digital payment channels.

3.2 Legislative and Statutory Alignment

Although India does not currently have a single, cohesive statute known as the “ODR Act,” the legal legitimacy of ODR is supported by a number of current statutes:

1. *The Information Technology Act, 2000 (IT Act)*: Sections 4 and 5 of the IT Act provide digital signatures and electronic records the same legal status as paper documents.⁵ Online dispute resolution agreements are supported by Section 10A, which expressly acknowledges the legality of transactions made electronically.
2. According to Section 7(4)(b) of the Arbitration and Conciliation Act, 1996, an arbitration agreement may be reached by letter, telex, telegram, or “other means of telecommunication which provide a record of the agreement.” Electronic arbitration agreements are easily accommodated by this statutory provision.⁶

² Richard Susskind, *Online Courts and the Future of Justice* (Oxford University Press, 2019).

³ Marc Galanter, *Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change*, 9 Law & Soc’y Rev. 95 (1974).

⁴ The e-Courts Integrated Mission Mode Project, *Policy and Action Plan Document for Phase I & Phase II*, e-Committee, Supreme Court of India.

⁵ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000, §§ 4, 5, 10A (India).

⁶ The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996, § 7(4)(b) (India).

3. *The Indian Evidence Act, 1872/Bharatiya Sakshya Adhiniyam, 2023*: Section 65B of the Evidence Act (and its modern counterpart) / Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 establishes stringent standards for certifying digital evidence and regulates the admissibility of electronic data in court.⁷
4. *The Code of Civil Procedure, 1908 (CPC)*: Section 89 of the CPC gives courts explicit statutory authority to refer parties to out-of-court dispute resolution procedures such as mediation, arbitration, conciliation, and judicial settlement.⁸

3.3 Judicial Endorsement of Digital Proceedings

The Indian judiciary has been actively pushing the limits of justice enabled by technology. The Supreme Court ruled in *State of Maharashtra v. Praful B. Desai* (2003) that video conferencing is a “procedure established by law” for recording evidence under the Code of Criminal Procedure, proving that physical presence is not a necessary condition for legal proceedings.⁹

In *Re: Guidelines for Court Functioning through Video Conferencing During COVID-19 Pandemic* (2020), the Supreme Court used its extraordinary constitutional powers under Article 142 to issue binding directives permitting the widespread adoption of virtual hearings across all Indian judicial forums during the COVID-19 pandemic.¹⁰

3.4 Policy Push: NITI Aayog’s ODR Strategy

The groundbreaking paper *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* was released by NITI Aayog in 2021.¹¹ ODR should be used as the standard procedure for settling low- and medium-value disputes between government agencies, public sector projects, e-commerce sites, and financial service providers, according to the research. Prioritizing online mediation and conciliation over binding electronic arbitration or traditional litigation, the policy framework promotes a phased deployment paradigm.

4 KEY ADVANTAGES OF ODR IN JUSTICE DELIVERY

Compared to conventional, physical litigation approaches, the institutional transition toward ODR offers the following concrete advantages:

4.1 Mitigation of Geographical and Cost Barriers

By its very nature, traditional litigation penalizes parties according to their socioeconomic status and place of residence. In order to attend court proceedings in urban regions, claimants who live in remote or rural locations must suffer substantial travel costs and lost wages. Litigants can participate in proceedings from their personal devices or nearby digital service centers thanks to ODR, which eliminates the need for geographical location.

⁷ The Indian Evidence Act, 1872, No. 1, Acts of Imperial Legislative Council, 1872, § 65B; *see also* The Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023, § 63 (India).

⁸ The Code of Civil Procedure, 1908, No. 5, Acts of Imperial Legislative Council, 1908, § 89 (India).

⁹ *State of Maharashtra v. Praful B. Desai*, (2003) 4 SCC 601.

¹⁰ *In Re: Guidelines for Court Functioning through Video Conferencing During COVID-19 Pandemic*, (2020) 6 SCC 686.

¹¹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Government of India, 2021).

ODR also significantly reduces administrative expenses. For both private litigants and the state, the total cost of resolving disputes is decreased by doing away with paper documents, court rental spaces, and ongoing in-person court appearances.

4.2 Reduction of Procedural Backlogs

ODR offers a scalable solution for institutional backlogs by optimizing dispute resolution procedures. Dispute platforms can process thousands of claims at once because of automated case intake, algorithmic document sorting, and asynchronous interactions. ODR enables prompt, structured remedies without taxing court dockets in sectors including consumer complaints, auto accident claims, credit card defaults, and small business invoice disputes.

4.3 Asynchronous Communication and Flexibility

The requirement for synchronous participation—all parties, attorneys, and judges must be present in the same physical location at precisely the same time—is a structural limitation of traditional court cases. Asynchronous communication modules are commonly used by ODR platforms. In order to accommodate people with rigorous work, caregiving, or physical accessibility restrictions, litigants may submit evidence, make arguments, and evaluate settlement conditions whenever it is convenient for them.

5 CRITICAL CHALLENGES AND SYSTEMIC SAFEGUARDS

Despite its transformational potential, incorporating technology into the administration of justice presents significant logistical, technological, and constitutional problems. These problems run the risk of replacing conventional obstacles to justice with digital ones if they are not resolved.

5.1 The Digital Divide and Socio-Economic Exclusion

The digital divide is the main threat to ODR deployment in emerging countries like India. Rural, economic, and demographic segments all have unequal access to digital infrastructure. Marginalized groups may be effectively prevented from taking part in ODR by problems like erratic internet connectivity, restricted access to internet-capable devices, and low levels of functional technology literacy.

Digitally excluded parties may experience default judgments or feel pressured into unfavorable settlements if a dispute resolution procedure is moved entirely online without offline options. Instead of acting as a constrictive barrier, justice systems must make sure that digital channels continue to be an extra route to justice.

5.2 Algorithmic Bias and the “Black Box” Problem

Algorithmic fairness is a major challenge as ODR systems incorporate AI capabilities for risk assessment, document analysis, and outcome prediction. Legal datasets from the past are used to train machine learning algorithms. The AI tool runs the risk of codifying and magnifying historical prejudices, cultural biases, or structural inequities in these datasets under the pretense of scientific objectivity.

Furthermore, sophisticated machine learning systems function as “black boxes,” meaning that human operators are unable to audit or explain the exact logical processes leading to a particular result.

Fundamental natural justice principles, particularly the entitlement to a reasoned, clear decision and *audi alteram partem* (hear the other side), are compromised by this lack of transparency.

5.3 Data Privacy, Confidentiality, and Cybersecurity

Sensitive personal information, confidential correspondence, financial records, and proprietary business documents are frequently involved in dispute resolution. ODR platforms are appealing targets for illegal spying, data breaches, and cyberattacks.

ODR service providers are required by international standards like the General Data Protection Regulation (GDPR) and data protection regimes like India's Digital Personal Data Protection Act, 2023 (DPDP Act) to strictly implement end-to-end encryption, stringent access controls, and transparent data retention policies.¹²

A fundamental component of mediation, confidentiality needs to be safeguarded against technical flaws, illegal recording, and the secondary commercial monetization of dispute data.

5.4 Procedural Due Process and Enforceability

The enforceability of settlements and awards made via digital methods is a significant legal obstacle in ODR. Even if statutory frameworks accept electronic signatures and agreements, it is still challenging to validate the absence of coercion, ensure informed consent, and confirm party identity in asynchronous, virtual contexts.

Platforms must use multi-factor authentication, verifiable digital signatures, and transparent digital audit trails in order for ODR results to have legal weight. Online mediation solutions must also be readily convertible into legally binding agreements or decrees under the relevant mediation statutes.

6 THE FUTURE HORIZON: TOWARDS A BALANCED, HYBRID JUSTICE FRAMEWORK

A balanced framework is required to fully utilize technology in the administration of justice while protecting constitutional rights. Justice policy should strive for an integrated, hybrid design rather than trying to completely replace traditional courts.

6.1 Multi-Tiered Dispute Resolution Design

A multi-tiered strategy based on party dynamics and dispute complexity should be used in future justice systems:

1. *Tier I (Automated/Self-Service)*: Automated negotiation platforms and guided self-help tools are used to resolve low-value, high-volume consumer or transactional disputes.
2. *Tier II (Technology-Assisted E-Mediation)*: Using secure ODR platforms, impartial human mediators settle medium-value business, family, or employment disputes.
3. *Tier III (Hybrid Judicial/Arbitral Determination)*: Traditional judges or arbitrators use virtual hearings and e-filing technologies when necessary to settle complex, high-value, or innovative constitutional legal concerns.

¹² The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India); *see also* Regulation (EU) 2016/679 (General Data Protection Regulation).

6.2 Institutional Standards, Certification, and Ethical Guidelines

Regulatory agencies must set stringent operational guidelines to guarantee procedural integrity among private and public ODR service providers. These guidelines ought to require:

- Algorithms that are independently audited or open-source to guarantee impartiality.
- Strict adherence to data minimization rules and strong cybersecurity processes.
- Required “human-in-the-loop” safeguards that guarantee human inspection and appeal of automated or algorithmic outcomes.
- Compliance with accessibility standards for people with impairments, such as screen reader compatibility and user-friendly UI/UX design.

6.3 Public Digital Infrastructure and Kiosks

Governments should set up physical access points with high-speed internet, secure devices, and qualified technical facilitators, such as legal aid centers or digital kiosks at local administrative offices, to close the digital divide. This guarantees that citizens who are digitally illiterate or from low-income backgrounds can access ODR platforms with help, maintaining fair access to justice for all groups.

7 CONCLUSION

A major change in the administration and provision of justice is represented by online dispute resolution and new legal technologies. ODR offers an efficient way to democratize legal remedies and lessen the load on existing courts by reducing structural barriers associated with geographic distance, procedural delay, and exorbitant litigation expenses.

But technology is a tool, not a perfect answer. Without structural protections, ODR’s indiscriminate proliferation runs the risk of escalating digital exclusion, jeopardizing data privacy, and introducing systematic prejudice through unreliable computational tools. Access to justice is guaranteed by the constitution, which calls for procedural justice, equity, and institutional integrity in addition to speed and convenience.

Therefore, a balanced, hybrid framework is the key to delivering justice in the future. Legal systems can create a contemporary, accessible, and inclusive justice system that successfully satisfies the needs of a contemporary digital society by integrating technology with strict judicial control, institutional norms, strong data protection, and focused public infrastructure.

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