
ONLINE DISPUTE RESOLUTION: PRE COVID-19 v/s POST COVID-19

Legal Upanishad Journal

Vol 1 Issue 1 | March 2023 | pp- 9-14

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ABSTRACT

Online Dispute Resolution is an innovative form of dispute resolution that utilises technology and the internet to facilitate the resolution of disputes. It is considered a rapidly growing field, and it has the potential to significantly improve access to justice, reduce costs, and increase efficiency in resolving disputes¹. It is designed to be user-friendly, accessible, and cost-effective. It aims to provide an alternative to traditional dispute resolution methods such as litigation, arbitration, and mediation. The said mechanism typically involves the use of online communication tools, such as electronic mail, chat, video conferencing, and web-based platforms, to facilitate communication and negotiation between the parties.

It is becoming increasingly popular in a wide range of industries, including e-commerce, banking, insurance, and healthcare. It has the potential to significantly improve access to justice, reduce costs, and increase efficiency in resolving disputes². However, it is important to note that the said mechanism is not suitable for all types of disputes. Complex disputes or disputes involving significant legal issues may still require traditional methods. In this article, the author tries to analyse the concept of Online Dispute Resolution and its evolution over a period of time. An attempt has been made to conduct a comparative study between the Pre covid and post covid statistics of ODR.

Keywords: Accessible, Cost-Effective, Disputes, User-Friendly and Web-based

¹ Dev Sareen, *Online Dispute Resolution- Application and Challenges*, 1 INT'L J. L. MGMT. & HUMAN. 1, 1-3 (2018)

² Ms. Apoorva Dixit, *Online Dispute Resolution: An Indian Perspective*, 2 INT'L J. L. MGMT. & HUMAN. 1, 2-4 (2018)

1. INTRODUCTION

Recently, in an ODR webinar hosted by NITI Aayog, it was stated by the experts that the demand for ODR will grow rapidly in the country post-Covid-19. In simpler terms, Online Dispute Resolution is a subset of Alternative Dispute Resolution with some 'tadka' of technology. Online Dispute Resolution (ODR) has several advantages over traditional methods. One of the most significant advantages is its accessibility. It can be accessed from anywhere, at any time, using a computer or mobile device. This makes it possible for parties who are located in different parts of the world to resolve their disputes without the need for travel or face-to-face meetings. The cost-effectiveness is yet another benefit of the Online Dispute resolution mechanism in comparison with the traditional method. It can be significantly less expensive than traditional resolution methods and eliminates the need for expensive legal representation, travel expenses, and other costs associated with traditional resolution methods. This makes it an attractive option for parties who are seeking a cost-effective way to resolve their disputes³. This paper will try to focus on the meaning, origin, and development of the concept of ODR.

2. ONLINE DISPUTE RESOLUTION: MEANING

Online dispute resolution (ODR) is the process of resolving disputes that arise in online transactions or interactions, such as e-commerce transactions, online auctions, social media interactions, and online gaming⁴. Several different types of the said mechanism also include negotiation, mediation, and arbitration. Negotiation is a process in which the parties attempt to reach a resolution through direct communication and negotiation. Mediation involves the use of a neutral third party, called a mediator, who facilitates communication and negotiation between the parties. Arbitration is a process in which a neutral third party, called an arbitrator, makes a binding decision based on the evidence and arguments presented by the parties.

The said mechanism is also more efficient than traditional resolution methods. It can be completed in a shorter time frame than traditional dispute resolution methods, which can take

³ Ms. Apoorva Dixit, *Online Dispute Resolution: An Indian Perspective*, 2 INT'L J. L. MGMT. & HUMAN. 1, 2-4 (2018)

⁴ Dev Sareen, *Online Dispute Resolution- Application and Challenges*, 1 INT'L J. L. MGMT. & HUMAN. 1, 1-3 (2018)

months or even years to resolve. It allows parties to resolve their disputes quickly and efficiently, which can help to reduce the stress and anxiety associated with prolonged dispute resolution processes.

3. ORIGIN OF ONLINE DISPUTE RESOLUTION (ODR)

The concept of online dispute resolution (ODR) dates back to the 1990s when the internet was just beginning to gain widespread popularity. One of the earliest examples of ODR was the creation of the Electronic Ombudsman in 1995, which was a project developed by the National Institute of Standards and Technology to resolve disputes that arose in online transactions.

Over the years, it has evolved and become more sophisticated. In 2002, the United Nations Commission on International Trade Law adopted the Model Law on Electronic Commerce, which included provisions on the said mechanism. This was followed by the creation of several ODR platforms and organizations, such as the World Intellectual Property Organization Arbitration and Mediation Center and the International Centre for Dispute Resolution.

One of the most significant developments in the history of the mechanism was the creation of eBay's Resolution Center in 1999. This platform was designed to resolve disputes between buyers and sellers on eBay, and it quickly became one of the most successful examples of ODR. Today, eBay's Resolution Center is still in use, and it has helped to resolve millions of disputes over the years. It has also been used in various other contexts, including e-commerce transactions, social media interactions, online auctions, and online gaming. It has been particularly useful in resolving disputes between parties who are located in different parts of the world, as it eliminates the need for travel and face-to-face meetings⁵.

Despite the many advantages of the said mechanism, there have also been some challenges and limitations. One of the main challenges has been the lack of awareness and understanding of that resolution mechanism among the general public. Many people are still unfamiliar with that method of dispute resolution and may not trust the process or feel comfortable using it to resolve their disputes. Another challenge has been the lack of standardisation and regulation in the

⁵ Ms. Apoorva Dixit, *Online Dispute Resolution: An Indian Perspective*, 2 INT'L J. L. MGMT. & HUMAN. 1, 2-4 (2018)

respective field. There are currently no uniform standards or regulations governing that method, which can lead to confusion and inconsistencies in the application of the said processes.

4. PRE-COVID TIMES FOR ONLINE DISPUTE

The figures for online dispute resolution from 2015 to 2020 vary depending on the region and type of dispute resolution mechanism used. Here are some general statistics on said method during this time period:

- In the European Union, the number of ODR cases registered on the respective platform increased from 50,000 in 2015 to over 190,000 in 2019, with an average success rate of 53%. The majority of these cases were related to e-commerce disputes⁶.
- In the United States, the number of disputes resolved through online mediation and arbitration services increased significantly from 2015 to 2020. The American Arbitration Association reported that it handled over 40,000 cases through its online dispute resolution platform in 2020, compared to 28,000 cases in 2015.
- The International Chamber of Commerce reported that it received over 2,500 requests for the said resolution services from 2016 to 2019, with a success rate of 70%. The majority of these cases were related to commercial disputes.
- The United Nations Commission on International Trade Law reported that it received over 2,000 cases through its particular resolution platform from 2015 to 2020. These cases were related to a wide range of disputes, including e-commerce, intellectual property, and cross-border trade disputes.
- In India, the government launched an online dispute resolution platform in 2016 to resolve disputes related to e-commerce transactions. The platform received over 400,000 cases from 2016 to 2020, with a success rate of 73%.

Overall, these figures indicate that said mechanism has been growing in popularity and has become an effective way to resolve disputes in a wide range of contexts. While the COVID-19

⁶ Ms. Apoorva Dixit, *Online Dispute Resolution: An Indian Perspective*, 2 INT'L J. L. MGMT. & HUMAN. 1, 2-4 (2018)

pandemic has undoubtedly accelerated the adoption of that method, it is clear that it has been on an upward trend for several years and is likely to continue to grow in the future.

5. POST COVID TIMES FOR ONLINE DISPUTE RESOLUTION

It can provide greater flexibility and control for the parties involved. Parties can choose the time and place of the dispute resolution process and have more control over the process itself. For example, in online mediation, parties can communicate directly with each other without the mediator being present, which can help build trust and facilitate more effective communication.

However, it also has its limitations. One of the main challenges is ensuring the security and confidentiality of the process. Parties need to feel confident that their information is secure and that the process is fair and impartial. Additionally, this mechanism may not be suitable for complex or high-stakes disputes, where parties require more advanced legal advice or where the decision requires an in-person evaluation of evidence⁷.

Despite these challenges, the COVID-19 pandemic has accelerated the adoption of the said mechanism. As in-person dispute resolution processes were disrupted, parties turned to online platforms to resolve their disputes. This has led to increased investment in said mechanism technology and the development of new online platforms specifically designed for dispute resolution. Since the start of the pandemic, there has been a significant surge in the demand for that resolution services, as traditional dispute resolution processes have been disrupted. According to a report by Modron, an Online dispute resolution platform, the number of cases on its platform increased by 350% in 2020 compared to the previous year. The report also suggests that the trend is likely to continue as more people become accustomed to the benefits of online dispute resolution.

As for the figures of cases resolved through that mechanism from 2020-2023, it is difficult to provide an accurate prediction. The number of cases resolved through that dispute resolution will depend on many factors, such as the duration of the pandemic, the availability of vaccines, and the degree to which remote work and online interactions continue to be prevalent.

⁷ Michael Houlberg, *Online Dispute Resolution's Role in a Post-Pandemic World*, UNIVERSITY OF DENVER (Feb. 26, 2023, 8:00 PM), <https://iaals.du.edu/blog/online-dispute-resolution-s-role-post-pandemic-world>

6. CONCLUSION AND SUGGESTIONS

In the end, online dispute resolution has emerged as a valuable alternative to traditional dispute resolution processes. It offers a range of benefits, including greater accessibility, efficiency, and flexibility, and can provide a viable option for resolving disputes in a post-pandemic world where remote work and online interactions are more prevalent. Despite the advantages of the said method, it also poses challenges that need to be addressed. Ensuring the security and confidentiality of the process and maintaining the impartiality of the decision-maker are crucial factors for the success of online dispute resolution. Additionally, it may not be suitable for all types of disputes, particularly those that require in-person evaluation of evidence or more complex legal advice⁸.

However, the COVID-19 pandemic has accelerated the adoption of the said mechanism and has led to increased investment in the aforesaid technology and the development of new online platforms specifically designed for dispute resolution. It will likely continue to play an important role in resolving disputes, especially as remote work and online interactions become more prevalent⁹. As we move forward, it is important to ensure that its processes are transparent, secure, and impartial. There should also be continued investment in the aforesaid technology and infrastructure to make that dispute resolution method more accessible to a wider range of people and to enhance the quality of the services provided.

⁸ Michael Houlberg, *Online Dispute Resolution's Role in a Post-Pandemic World*, UNIVERSITY OF DENVER (Feb. 26, 2023, 8:00 PM), <https://iaals.du.edu/blog/online-dispute-resolution-s-role-post-pandemic-world>

⁹ Nilava bandyopadhyay, *Future Of Litigation And ADR In India – Post COVID-19*, MONDAQ (Feb. 24, 2023, 5:00 PM), <https://www.mondaq.com/india/arbitration--dispute-resolution/1046078/future-of-litigation-and-adr-in-india--post-covid-19->