

## EXAMINING THE ROLE OF ONLINE DISPUTE RESOLUTION (ODR) IN REDRESSING CONSUMER DISPUTES'

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### I ABSTRACT

*Online dispute resolution plays a critical role settling consumer disputes arising out of flourishing trade and commerce. The aspect which stresses upon the necessity ODR is emerging e-commerce and Information and Communication Technology (ICT). This paper analyses how the technology can be leveraged in settling the disputes. The successful ODR mechanisms of different countries has been assessed in the study. The study analysed secondary sources such as reports, journals. The laws and regulations dealing with ODR, e-ADR, the government based initiatives in India in terms of ODR as wells as participation of corporation and start ups in setting up internal redressal platforms has been examined by the study. The paper fiirst focused on the ODR through international frameworks, guidelines and mechanisms and then focuses on the ODR in Indian perspective by analysing consumer protection laws, laws related to ODR, examples of its implementation. The advantages of implementing an online redressal mechanism and the challenges pertaining to its implementation in India has been assessed.*

*The research draws on the findings as to the need of ODR and suggests recommendations to add on to the existing mechanisms. It is evident through the study that several international bodies and government have initiated website, platforms, laws and regulations, tribunals for consumer redressal. While in India, we are lacking in terms of comprehensive framework for consumer dispute resolution.*

*Key words: Online dispute resolution, legal framework in ODR, internal redressal platform, international frameworks, ODR in foreign nations, consumer disputes, government initiatives, private participation.*

### II INTRODUCTION

The enormous growth of e-commerce has also lead to growth of number of disputes associated with it. In case of dispute arises the consumer would be left with no option against the company as the consumer may not exactly know against they should claim for the loss especially when business and consumer are located different geographical locations, what would be the response of the company, will they given sufficient relief all these lingering questions created a need for an alternative that can help to settle disputes as well as save the transport costs. ODR is proven to be the alternative that can resolve disputes in time

and cost efficient manner. Since traditional court process take long time to arrive at the solution, ODR will be a prospective option to settle the matters quickly which can further build the customers trust in justice as well as ODR mechanisms. ODR is combination of alternative dispute resolution methods and information and communication technology (ICT). The ODR is quite popular in other nations due to its affordability, accessibility, cost effectiveness, transparency where as it is not yet fully developed in India.

### III METHODOLOGY

The study emphasises ODR as an mechanism to resolve the consumer disputes. Doctrinal study

has been adopted in the research. Literature review of available sources, articles in the this domain has been examined. It includes descriptive analysis of existing legal frameworks and ODR mechanisms adopted by India and ODR in international perspective. Websites, news articles, Journals and Government reports have been referred in the study.

#### IV LITERATURE REVIEW

- 1) The research conducted by Michael Ferrence, signifies the necessity for ODR to serve the needs of both businesses as well as consumers. They paper suggests for use of tripwires where consumers can claim both individual as well as mass claims, in which similar set of cases are dealt to ensure justice for mass claims. Trustmarks which implies that the particular business has been successful in resolving the consumer disputed. The decision out of dispute resolution should be non-binding, so that the consumers are not restricted from approaching courts in case unsatisfactory decision.<sup>48</sup>
- 2) According to the study conducted by Amy Schmitz, consumers are more accustomed to use of technology, online means, in such circumstances the ODR will be a promising mechanism. But the businesses are not undertaking enough effort to inculcate online dispute to resolve matters. ODR can serve as a system to resolve consumer disputes in a constructive manner rather than going for traditional methods. Though it is an developing and constructive mechanism, the fairness and adherence to ethical standards has to be ensured.<sup>49</sup>
- 3) In the study conducted by Patrick Bogan, the researcher emphasises the need for online dispute resolution especially in the current digital era where people largely prefer

online shopping, e-commerce. This exposed the customers to number of issues, which can resolved through a ODR system. Nationalised, State funded ODR system, which is easily accessible and free of cost to the customers can endure justice to the customer grievances. In the ODR system the process begins by customer filing complaint and the system analyses and notified the business, business and customer negotiate and settle the issue, in case not settled then the issue is settled by the mediator.<sup>50</sup>

- 4) Brian Chacha Sammy, in his study focuses on ODR as an alternative dispute resolution mechanism to resolve the customer grievances in the e-commerce. Since, traditional mode of dispute resolution through court is more time consuming and costly. ODR can be an potential alternative to address disputes by creating more awareness, cost effective and more accessible to the customers.<sup>51</sup>
- 5) The study conducted by Apoorva Dixit, deals with legality of resolving disputes through online means. The current legal framework do not regulate online resolution. There are no specialised or particular regulation to encompass online resolution. Harmonization is suggested by the author i.e., to create an umbrella framework for online dispute resolution which can be efficiently adopted in each country, such framework is possible through international treaty, which might take prolonged period of time.<sup>52</sup>

#### V THEORETICAL FRAMEWORK

##### A. CONSUMER PROTECTION LAWS IN INDIA

- o The Consumer Protection Act, 1986<sup>53</sup>
- The LPG policy adopted by the Indian Government around 1990's exposed the consumers to wide range of goods and services

<sup>48</sup> Michael Ferrence, The New Handshake: Online Dispute Resolution and the Future of Consumer Protection

Michael Ferrence, Volume 11 Issue 1, Arbitration Law Review (2019)

<sup>49</sup> Amy J. Schmitz\*, Evolution and Emerging Issues in Consumer Online Dispute Resolution (ODR), Ohio State Legal Studies Research Paper No. 714 (2022)

<sup>50</sup> Patrick Brogan, Consumer Redress Through Online Dispute Resolution: The Role

of Online Dispute Resolution in Facilitating Consumer Access to Justice in E-Commerce, Volume 12 Article 12, 2020

<sup>51</sup> Brian Chacha Sammy, Evolution and Effectiveness of Online Dispute Resolution: The Role of Online Dispute Resolution (ODR) in Resolving E-commerce Disputes (2024) DOI:10.13140/RG.2.2.12595.64806

<sup>52</sup> Ms. Apoorva Dixit, Online Dispute Resolution: An Indian Perspective, Volume 2, Issue 1, IJLMH (2018)

<sup>53</sup> Consumer Protection Act, 1986, No.68, Acts of Parliament, 1986 (India)

from all over the world. This resulted in entrance of number of corporate players. In order to prevent the consumers against unfair trade practices, exploitation by the emerging businesses and to ensure quality goods to the consumers as well as to safeguard the consumers, the Consumer Protection Act, 1986 was created. The act specifies 6 fundamental rights of the consumers: Right to safety, Right to be informed, Right to choose, Right to be heard, Right to redressal, Right to consumer education. The act protects consumers against unfair trade practices such as false advertisements, deceptive pricing and the act ensured redressal through national commission under Section 20 and 21, state commission under Section 16, district forum Section 10. The act lacked significant provisions to guard the online transaction, e-commerce websites.

o The Consumer Protection Act, 2019

The act provided for e-daakhil portal, as well e-commerce. The scope for meditation, arbitration, alternative dispute resolution to address the issues without approaching prolonged litigation. One of the important feature of the act was Central Consumer Protection Authority, the authority enforced consumer rights, protects them against deceptive advertisements as well as against unfair trade practices. Investigation is conducted as well as penalties are also imposed by the authority in case of violation. Another significant feature is Consumer Disputes.

Redressal Commission at centre, state and district, where consumers can approach the CDRC for speedy redressal. Consumer Protection Council was to be established at centre, state and district levels. Three new provisions related to unfair trade practices were added and unfair contracts was also introduced in the CPA, 2019.

### **B. CONSUMER DISPUTE**

The term consumer dispute is defined in the Section 2(e) of Consumer Protection Act, 1986. It arises in the commercial transactions between the consumers and businesses regarding the

defect in goods and services or other unfair practices. The Consumer Protection Act provides for the forums or the commissions, for resolving the disputes by filing out the complaints at the forums about the grievances and the forums proceeds against the business thus, ensuring that the consumer rights are protected by compensation for the loss.

### **C. ADR**

The ADR i.e. Alternative Dispute Resolution is an unequivocal element in dispute resolution. ADR resolves the matters out of the traditional courts. ADR is governed by Arbitration and Conciliation Act, 1996, Lok Adalat is discussed in section 20(1) of Legal Services Authority Act, 1987. It is an cost effective, time saving method avoiding lengthy procedures. ADR includes Lok Adalat, arbitration, mediation and conciliation. The process involves an unbiased third party to settle the issue. The ADR can help in settling the matters efficiently thereby reducing the burden of the courts. The growing technology in the contemporary era calls for the online means of dispute resolution.

### **D. ODR**

A mechanism to settle disputes outside the traditional courts that incorporates internet, technology like AI and other forms of dispute resolution such as arbitration, mediation, conciliation, etc. The origin of ODR can be traced back to 1990's, where the large number of people were familiarising with the internet and usage of e-commerce. National Centre for Automated Information Research (NCAIR) in 1996, was first to publish article related to ODR and sponsored ODR projects. University of Massachusetts established National Centre for Technology and Dispute Resolution to expand ODR domain and organised conferences to engage in discussions regarding ODR. In 1990's jurisdictional issues arose in the courts related to parties belonging to different locations. E-bay launched pilot project in 1999 for e-mediation and around 2010, e-bay dealt with over 60 million cases. ODR eliminates the need for meeting in person to resolve disputes, making it

advantageous in cross border transactions. It is an affordable and time saving mechanism.

#### **E. ODR IN INTERNATIONAL PERSPECTIVE**

Organisation for Economic Cooperation and Development(OECD) in 1999 recommended for a mechanism in order to resolve consumer disputes, where consumers should have access to an transparent, low cost alternative and compensation for the damage without involvement of court to settle both local and international e-commerce disputes.

United Nations Commission on International Trade Law (UNICTRAL) in 2016, adopted Technical Notes. 'Technical Notes' is a descriptive non binding document that defines the stages or process of ODR process. The main objective was to address the disputes arising out emergence of e-commerce in international trade. It encompasses framework for e-signatures, e-documents etc. The ODR process includes three stages first being the negotiation stages, second stage involves a third party for mediation and the third stage comes into picture when the dispute was not settled in the first two stages. It is up to the discretion to choose the nature proceedings of the third stage. The principles such accountability, fairness, transparency, etc. are emphasised.

European Union (EU) on ADR and ODR: The EU's framework created 'ADR directive' and 'ODR regulation'. The establishment of ODR platform was mandated so that the disputes can be resolved in a efficient and timely manner through online means upon preceding agreement between the parties regarding which ADR entity they are going to approach to resolve dispute. The process begins by filing out complaint followed by notice to respondent, choosing party to provide the adjudicating service, settling the dispute in online and feedback at the end of the process for the customer and business to express their opinion.

World Intellectual Property Organisation (WIPO) adopted ODR model to settle IP disputes where the complaints are filed at WIPO panel, the matter is decided within 4 months.

The ODR can be traced in the Federal Arbitration Act(FAA) and Electronic Signatures in Global and National Commerce (ESIGN) in US. The ESIGN framework deals with e-commerce and e-documents. The act holds the electronic records in the same footing as paper documents. The legal validity of ODR in US is derived from the FAA. E-sign is one of the significant component in ODR to validate the documents involved in the ODR procedures that are digitally signed. E-Contracts are also legally recognised under this regulation. Further American Arbitration Association and the International Chamber of Commerce serves as guidelines throughout ODR process.

#### **F. CASE STUDY ON IMPLEMENTATION OF ODR MECHANISM IN DIFFERENT COUNTRIES**

##### **BRAZIL**

Brazil's National Consumer Secretariat (SENACON) of the ministry of justice introduced [consumidor.gov.br](http://consumidor.gov.br) in 2014 for consumers and businesses in Brazil, it acts as medium for dispute resolution, the platform is managed by SENACON. The businesses register themselves with the platform. Upon receiving complaint the business has 10 days time to attend to the complaint. Following the response by the business, the consumer can either accept or reject within 20 days. One significant aspect of the platform is the transparency, upon end of the each of the each process, the information such as solution reached, time taken to address the issues is published in the data base, this information acts an indicator of the business's performance, which might be helpful for the customers to choose the business they wish have transactions with.

##### **KENYA**

Online dispute resolution in Kenya in the form of domain name disputes, the Kenya Network Information Centre solves domain name disputes. Uniform Domain Name Dispute Resolution Policy (UDRP) of Internet Corporation for Assigned Names and Numbers (ICANN) acts a foundation for dispute resolution. ICANN is non profit organisation manages ccTLD by partnerships with government and other

entities. KeNIC is a non profit organisation that manages KE Country Code Top Level Domain(ccTLD).<sup>54</sup>

### CHINA

China is a significant player in the e-commerce transactions over seas. With the advent of e-commerce, national platform for consumer dispute resolution was introduced in 2017. This CDR is based on the Consumer Rights Protects Law of China, 2013. [www.12315.com](http://www.12315.com) is an nation wide platform which can be accessed free of cost for 24 hours a day, it is managed by State Administration for Market Regulation (SAMR). The consumer can choose the company they wish to complaint against. Upon receiving the complaint, the case is taken based in jurisdiction, documents and other requirements. The 12315 either persuades the company to settle the dispute with the consumer or it can go for unbiased third party. In case the decision is satisfactory and accepted by the consumer then the company has to abide by it in case it is unsatisfactory then the consumer can further approach courts for litigation.

### MEXICO

Concilianet, is an national platform for consumer dispute based on Federal Consumer Protection Law established in 2008 by Procurauría Federal Del Consumidor (PROFECO). The platform is free of cost and businesses can register in the platform. The dispute is resolved in the pre-conciliation stage in case, the dispute is not settled then next parties go for the next phase for resolution. Group conciliation is also provided by the platform where similar set of complaints are dealt together. The lack of participation by the businesses is set back, which is tackled by the PROFECO by engaging with continuous meetings and interactions with businesses and encouraging them to participate. As and when the complaint is received, the case is taken up within 10 days

and within 90 days the case is decided. The dates for settling dispute is provided by PROFECO, the consumer's feedback is taken at the end of the dispute resolution process.

### AUSTRIA

Austrian internet ombudsman provides mediation and arbitration over online for disputes arising from contracts between businesses and consumers in Austria. It offers legal advice as well as deals with e-transactions, guarantee, warrantee issues. 'Watchlist internet' is managed by internet ombudsman, providing information related to the latest online frauds free of cost and provides further assistance to the victim of such frauds.

### CANADIAN CIVIL RESOLUTION TRIBUNAL (CRT)

CRT is an quasi judicial online tribunal that takes up small claims cases, vehicle accidents and cases related to societies. Parties will be provided with self help tools, parties can even speak for themselves, when the consensus is not arrived then the tribunal will decide and the decision of the tribunal is enforceable.

### HM ONLINE COURT (HMOC)

HMOC was suggested as a mechanism to resolve disputes in 2017, the idea was based on ebay's dispute resolution mechanism. It is affordable, user friendly, easy to access, transparent mechanism. It would be a three tier mechanism. It consists of three stages. The first stage is free of cost, while second and third stage is charged for the service provided. In the first stage, legal advice will given regarding the problem and they will be informed about the alternatives. In the second stage, mediation, negotiation, etc. will be undertaken to arrive at a solution, in case the outcome is not satisfactory, then the parties go for the third stage, where judges preside over the dispute resolution process and the decision of the judge will be final and binding.

### RECHIJSER

Rechijzer is an Dutch based online platform which deals with not just consumer disputes but

<sup>54</sup> Brian Chacha Sammy, Evolution and Effectiveness of Online Dispute Resolution: The Role of Online Dispute Resolution (ODR) in Resolving E-commerce Disputes, 13 (2024) DOI:10.13140/RG.2.2.12595.64806

also other legal disputes, it is an inexpensive option especially for those who are unable to acquire a lawyer to represent them. With successful implementation of Rechiizer 1.0, Rechiizer 2.0 was formed.

### G. ORIGIN OF ONLINE DISPUTE RESOLUTION

In the first stage, origin of ODR can be traced back to the conference by university of Maryland and university of Massachusetts in ODR. Later in 1990, the internet users and e-commerce users rose along with disputes arising out of it, which created the need for a system to settle the disputes. ebay was successful in implementing well developed ODR platform to resolve disputes. In the second stage is marked by number of companies even big corporations launched ODR platforms. In the third stage government acknowledged the potential of ODR. Government of different countries started implementing ODR systems in their country by incorporating information and communication technology to settle not just intra country but inter country disputes as well. Court annexed ODR was also adopted by many countries. The data privacy and enforceability issues in ODR has to be addressed. PayPal's platform to settle the issues laid down foundation for growth of ODR.

In the case of India, Ministry of Consumer Affairs is constantly taking steps towards development of ODR in India. Judiciary through its verdicts emphasises the need of ODR. Few legislations also discusses about e-signatures, use of video conference in proceedings, e-documents, etc. The advent of pandemic imposed the need to take things online which further created need for online redressal platforms. The piling up of cases in the court as well has necessitated an alternative approach. Currently, India has private players, court annexed and government platforms.

### H. LEGISLATIONS DEALING WITH ODR

Indian Evidence Act, 1872: ODR is not expressly provided in the act but it is evident that the act recognises online evidence i.e., E-records as

documents. Section 65A recognises and provides for online records and Section 65B provides for the procedure of it.<sup>55</sup>

Code of Civil Procedure, 1908: The Section 89 of the code provides for settling the dispute outside the court including ADR as well online dispute resolution.<sup>56</sup>

Legal Services Authorities Act, 1987: Deals with Lok Adalat and Alternative Dispute Resolution.<sup>57</sup>

Arbitration and Conciliation Act, 1996: The amendment of 2015 has recognised the e-agreements which paved way for arbitration through online means. The subsequent amendment in 2019 has again emphasised the significance of technology in arbitration.<sup>58</sup>

Information Technology Act, 2000: The legalised the e-documents, e-records, and e-signatures.<sup>59</sup>

Consumer Protection Act, 2019: The act recognises role of technology in settling consumer disputes, which is evident through e-filing of complaints (e-daakhil), addressing and resolving matters through virtual mode as well as mediation cells for online dispute resolution.<sup>60</sup>

Consumer Protection Act (E- Commerce) Rules, 2020: This enabled the creation of grievance redressal platform in the e-commerce businesses.<sup>61</sup>

## I. ODR MECHANISMS IN INDIA FOR CONSUMER DISPUTES

### INITIATIVES BY GOVERNMENT

DEPARTMENT OF CONSUMER AFFAIRS: Consumer helpline number was introduced by the department for consumer's well being. Integrated Consumer Grievance Redressal Mechanism was launched, in which complaints of consumers were resolved, including the

<sup>55</sup> Indian Evidence Act, 1872, Sections 65A, 65B, No. 1, Acts of Parliament, 1872 (India)

<sup>56</sup> Code of Civil Procedure, 1908, Section 89, No. 5, Acts of Parliament, 1908 (India)

<sup>57</sup> Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India)

<sup>58</sup> Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India)

<sup>59</sup> Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India)

<sup>60</sup> Consumer Protection Act, 2019, No.35, Acts of Parliament, 2000 (India)

businesses. Later Consumer App was launched that made registering complaints easier. The Consumer Protection(E-commerce) Rules, 2020 mandated the establishment of grievance redressal mechanism in the businesses involved in e-commerce. The department is constantly working towards creation of effective mechanism to address the consumer grievances through an affordable, accessible, hassle free, cost efficient method by incorporating the technology in the dispute resolution.

**The online consumer mediation centre:** It is an initiative by Ministry of Consumer Affairs to address the consumer disputes. The consumers can file the complaints in the platform where they register themselves and provide details about the issues and relief they expect from the particular entity. They can go for mediation or negotiation. The parties shall be provided with a mediator to resolve the matter. It is an ODR platform established at National Law School of India University sponsored by Ministry of Consumer affairs. The centre aims at the reducing the burden of courts in dealing with heaps of cases and to ease the e-commerce transactions. It is an accessible, user friendly approach. The platforms tries to build healthy relationship between businesses and consumer by mediation services ensuring to be advantageous to both the parties by arriving at mutual settlement.

**SECURITY AND EXCHANGE BOARD OF INDIA:** The SEBI introduced ODR i.e., SCORES( SEBI complaints Redress System) a computerized system to resolve disputes arising out of buying and selling of securities. The investor files complaint in the portal in case he has no access to it he can file complaint physically in any SEBI offices which is later on posted in the portal. The status of the complaint can be viewed in the portal. The complaint can be resolved when it is not pending in any other court, tribunal, etc.

**DEPARTMENT OF JUSTICE:** Initiatives are taken by the Department of Justice by emphasising the

government departments and bodies to create ODR systems to settle the disputes.

**RBI:** RBI in August 2020 initiated ODR mechanism to settle disputes arising in digital transactions emphasising less human intervention, user friendly and transparent mechanism. The initiative is to resolve digital payments issues and the factors such as significant increase in both digital transactions and equivalent increase in disputes arising out of such transactions.

**NATIONAL PAYMENTS CORPORATION OF INDIA:** The NPCI issued circulars mandating the Payment System Operators to have ODR platforms and mandated that the banks and other entities indulging in UPI should have ODR mechanism to resolve the consumer disputes for instance failure of payments and other issues. This initiative will safeguard the consumers interest as well as boost their trust in UPI system in the country.

#### **ODR INITIATIVE BY PRIVATE SECTOR**

**SAMA:** The platform settles disputes arising between businesses and consumers and offers online arbitration, online Lok Adalat and online mediation. It is a cost effective mechanism.

**CENTRE FOR ALTERNATE DISPUTE RESOLUTION EXCELLENCE (CADRE):** The platform settles small disputes, which are settled in a timely and a cost effective manner. It has standard procedures, trained service providers and well made platform abiding the provisions of Arbitration and Conciliation act, 1996.

**WEVAAD:** An online platform where parties can settle money, debt, family related issues.

**JUSTACT:** The platform aids in settling commercial disputes and provides arbitration and mediation services.

**PRESOLV360:** It is an secure and Tech based platform that offers arbitration, negotiation, conciliation and mediation services. It is an accessible, time efficient way of resolution the issues, less complicated way of settling matters.

**LAW WAGON:** It provides for dispute resolution through e-ADR, where issues are settled outside the court room.

**JUPITICE:** Offers Online ADR in case of commercial, business to consumer, business to business disputes and disputes related to international transactions.

**Centre for Online Dispute resolution:** The platform exclusively operates to provide online arbitration and mediation.

#### **J. STRENGTH OF THE ONLINE DISPUTE RESOLUTION**

**Time and Cost effectiveness:** Reduces cost burden on both consumers as well as businesses. Relatively less expensive than litigation costs. It is beneficial for companies as the companies may feel the need to avoid lengthy times in invested in litigation process which might even affect companies good will.

**Hassle free:** The traditional litigation process involves lengthy documentation, physical presence of parties etc. Where as ODR is a simple procedure of filing the complaint and relevant documents which does not require parties to be physically present. In case ODR system in companies, it can act as a medium for consumers to directly approach the respective company's platform to sort out their issue rather than litigation. It even leads to sustainability by reducing the dependency on papers.

**Eliminates complexities:** Rather than elevating the matters, the problem can be resolved by arriving at mutual settlement between concerned parties within limited time frame.

**Justice to all:** Every aggrieved party can file their complaints in various platforms. By creating a user friendly, technology driven and easy to access platform and with enough awareness regarding the redressal platforms, justice would be served to all.

**Accessibility:** The parties do not have to travel to a particular and physically file complaints, complaints can be filed at websites, platforms available at hand in the technology driven era where everyone has access to internet.

**Burden of Courts:** One of the significant need to implement ODR is to reduce the burden of the courts. Number of unsolved cases already exists, by establishing such alternative method

small scale disputes and even other claims can resolved through these mechanisms efficiently and thereby reassuring the justice to people

**Justice to underprivileged:** Many neglected parts of society do not have enough awareness and facilities to approach courts, they may face difficulties language barriers and other physical barriers.

**Secured:** The process in the ODR platform are secure and ensures privacy and confidentiality.

**Flexibility:** ODR ensures speedy justice in a more convenient way.

**Data:** Number of documents are handled in court procedures and their maintenance which complicates the process but such documents can be easily stored and transferred online.

#### **K. BARRIERS IN THE DEVELOPMENT OF ODR**

**Lack of infrastructure:** Though the technology is advancing at a faster rate, due to unequal development in the country, one part is equipped with all the facilities while the other part is at disadvantage. Neglected or economically backward do not have enough infrastructure facilities such as computers and mobile phones to access the online platforms.

**Digital awareness:** To make justice accessible to all, people should be made aware about ways in which they can seek justice. Awareness programs has to be developed to teach and make people aware about existence dispute resolution mechanisms se well as awareness as to how to access and use such mechanisms.

**Literacy rates and language differences:** Fir people to use the ODR, they should have enough education to be able to read and understand the procedures. The platforms should not just be accessible to English speakers but it should be manufactured to be accessible to people speaking different languages. To encompass the these differences and to make it accessible can be potential challenge.

**Inadequate access to internet:** The entire population do not have access to internet. It is evident only 27 percent of rural population have access to internet compared to urban area where 51 percent are users of internet. This



difference in usage and access to internet can act as a barrier to access the ODR platform.

**Scepticism and inadequate awareness:** People do not have awareness regarding the ODR platforms. The people are sceptical towards ODR, whether it would be safe, what would be the legality of ODR decisions, etc. Even the litigation is a tiring process and lengthy, people place immaculate trust in the court, which makes them to question and have doubt over ODR.

**Data security and privacy concerns:** With increasing intervention of technology the problems related tampering of evidences, documents and awards can arise. Even though there are legislations for data protection, an extensive framework has to developed to protect the users of ODR platforms.

**Legality and implementation:** The legality of the awards and their enforceability is not crisply mentioned or provided by our legal framework, which may pose a challenge towards acceptance of ODR.

**Lack of professional mediators or arbitrators** to provide the ODR services.

**Lack of enough frameworks:** Though many legislations in India discuss about, digital signatures, as to how arbitration and meditation processes can be done online, still there is a need of a framework to encompass the entirety of ODR, the procedures associated with it, the enforceability, qualifications of service providers. Why not a umbrella framework.

**Lack of development in ODR:** In the recent years, especially after COVID-19, private companies started to develop ODR systems. But there is still lack of technology interface to develop an accessible, affordable, convenient platform to settle dispute.

**Jurisdictional problems:** India is a vast country, the disputes arises in every corner which leads to questions as to who can adjudicate, which law is applicable, where and how far is the outcome of the process is applicable.

**Principles of natural justice:** The right to heard, notice of hearing, opportunities to present and defend is to ensured.

**Qualified professionals:** ODR involves mediation, negotiation, etc. these services are to provided by the professionals, lack of technical knowledge of professionals can affect the outcome of the process.

#### **VI RECOMMENDATIONS**

**Enhance access to digital infrastructure:** The internet should be made accessible to all including the rural population. Government has introduced BharatNet project and National Broad Mission in 2015 and 2019 respectively. Prime Minister Wi-Fi access network interface was also introduced by the government for access to Wi-Fi. Not just making the infrastructure available to the people but also people should be encouraged to use the internet, as it is evident that women, elderly and rural population use internet relatively less than the others. In order to ease the overall involvement of people in the usage of internet as well as the ODR systems, it should be user friendly and flexible.

**Awareness program:** The awareness campaigns and programs can be launched to enrich the people knowledge as to the usage of technology, internet. Only when people have enough digital knowledge, they will be able to leverage the benefits of ODR systems. Pradhan Mantri Gramin Digital Saksharta Abhiyan was launched to improve the digital proficiency and literacy.

Not just literacy in terms of internet usage but also awareness should be inclusive as to the availability of ODR platforms, how to access the ODR platforms

**Collaborations:** Since we do not have enough infrastructure advancement in ODR platforms, cross border collaborations can be made with countries where they have succeeded in implementation of ODR. Such collaborations may result in development of potential ODR mechanism in our country.

**Flexibility:** Internet users are not less in the country, but there is an existence of divide in the internet users as well as in digital and literary proficiency. In order to make them ODR accessible to all it should be manufactured in

such a way to cater to the needs of all categories of the population.

**Offering incentives:** Government plays an important role in ensuring adoption and implementation of ODR, by offering incentives. Incentives in terms of less fees and others. Not just to encourage the dispute resolution through ODR, but also to encourage the companies to have their own online internal redressal mechanism.

**Improve trust in ODR:** When government recognises the ODR systems and their credibility, it will automatically build people trust in ODR. Governed can acknowledge and inform the public about formal ODR players and information regarding the access to it, these set of information can be displayed in websites and other sources to increase awareness of it. Government can even mandate the certain disputes to be first gone through ODR procedure which encourages the participation in ODR as well as it may reduce burden of cases on court's. By establishing ODR by government departments to resolve disputes related to it can also significantly increase people trust in ODR.

**Legal framework:** There is no enough comprehensive framework to ensure implementation of ODR. Laws has to be introduced regarding the procedures of the ODR process, regarding the documentation processes, data protection to the parties participating in the ODR process, enforceability of the awards and agreements in the online dispute resolution. Standards as to the players who can engage in ODR should also be provided by the law. The void in the areas of law concerning ODR has to be filled.

**Principles:** Set of principles and rules has to be laid to be followed by participators to ensure meeting the required standard, quality, credibility and ethical obligations.

**Development in commerce:** By incorporating ODR in the businesses as well as making consumers aware of the facility of ODR will encourage them to engage with that business,

it gives them assurance that in case any disputes it will resolved by the mechanism.

**Partnership with private players:** By making partnerships with the private players, government will get access to enough material as well as human resources and technology required to establish ODR mechanism.

#### VII CONCLUSION

ODR is a mechanism to resolve dispute by integrating ICT and AI tools. By implementing the ODR system, an accessible, affordable. By using the technology in grievance redressal, an accessible, affordable, time and cost effective ODR system can be established. With comprehensive framework for the establishment of ODR, India can develop a mechanism not just to resolve disputes with limited time and low cost but also to reduce the burden on courts. There are number pending cases in the cases in courts and it takes a long time to resolve the dispute at court making the process more complicated. ODR is an alternative to the traditional court processes to resolve the issues, as it is mainly driven by technology and internet, though entire population is not digitally literate, still the majority of population has access to computer, Internet and other infrastructure and the internet and technology is growing rigorously in the country. With fast growth of technology, e-commerce and increase in the number of e-commerce related dispute, ODR is a potential mechanism to resolve the consumer disputes. This mechanism eliminates the cost and the need to be physically present during the process which makes it even more convenient. The pandemic period has created the need to take the procedures, process associated with claims and justice online. ODR is offered in different ways one is through video conferencing i.e., where parties interact in real time while the other does not involve video conferencing, rather the interactions happens through email or other options.

It is evident that Government departments and Ministries, judiciary have acknowledged the potential and have taken efforts to improve

ODR, by creating programs for awareness, projects to improve people access to internet and has established court annexed as well as other ODR systems in the country. The role of private players cannot be ignored, companies have taken steps to create ODR mechanism which is affordable, user friendly, advanced and secured by integrating AI and technology. There is no lack of businesses or corporation in India but there lack of framework to the disputes that might arise in the businesses acting as a drawback for the development of business in the country. The ODR can be beneficial to the businesses who wish not to invest lengthy time in courts and to affect their good will rather settle the matter in more informal way and it is beneficial to people as they will have enough alternative to seek justice, ODR can be considered as a approach that can restore people's faith in justice by overcoming the myth that seeking justice is lengthy and tiresome process.

There is long way ahead for India in ODR. ODR is still in infant stage in the country. With collective effort of Government, private sector and other stakeholders India will be able to develop a well designed ODR system. Government should take steps to improve the technology, awareness, infrastructure to ensure successful outcome. A well structured ODR mechanism can ensure justice to all.

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