



Online Dispute Resolution for Ease of Business

This editorial is based on [“India must board the Online Dispute Resolution bus”](#) which was published in the Hindu on 13/04/2023. It explores India's current position in institutional arbitration, its challenges in enforcing contracts, and the potential for Online Dispute Redressal to improve the country's business environment.

For Prelims: [ODR](#), [World Bank's Ease of Doing Business Report](#), [Arbitration and Conciliation \(Amendment\) Act, 2019](#), [Digital Divide](#), [Aadhaar kendras](#), [e-Courts Project](#), [Union Budget 2023](#)

For Mains: Empowering India's Business Environment through ODR, ODR and Related Challenges

At the Delhi Arbitration Weekend in February 2023, Union Law Minister emphasised the need for institutional arbitration to enhance the ease of doing business. India has shown tremendous improvement in the [World Bank's Ease of Doing Business report](#) (now [World bank stopped publishing](#)) rising from the 142nd rank among 190 countries in 2014 to 63rd in 2019.

However, India is still struggling in terms of enforcing contracts, with a **rank of 163rd out of 190 countries**. While India may have missed the bus in becoming an international arbitration hub, **there is potential for the country to catch up with [Online Dispute Redressal \(ODR\)](#)**.

- With the current issue of cases pending for prolonged periods, **Online Dispute Resolution (ODR) has the capability to provide accessible justice to everyone**, thereby tackling the problem.

What is India's Current Position in Institutional Arbitration?

- India has made significant progress in institutional arbitration in recent years.
- The Indian government has taken **several measures to promote institutional arbitration**, including the establishment of the [Mumbai Centre for International Arbitration \(MCIA\)](#) and the **Delhi International Arbitration Centre (DIAC)**. These institutions aim to provide a world-class platform for conducting international arbitration in India.
- In 2022, to speed up dispute resolution, Finance Minister **announced the setting up of an international arbitration centre at [GIFT City](#)**.
- In addition to these institutions, the **Indian government has also enacted the [Arbitration and Conciliation \(Amendment\) Act, 2019](#)**, which seeks to streamline the arbitration process in India and make it more time-bound and cost-effective.
 - The **Act provides for the establishment of the Arbitration Council of India (ACI)** to promote the development of arbitration in India and to regulate the conduct of arbitrators.

How Online Dispute Redressal can improve India's Business Environment?

- **Faster Resolution of Disputes:**
 - The traditional legal system in India is known for its slow and cumbersome process. ODR can **help resolve disputes faster as it is based on technology-enabled processes** and does not involve physical presence.
- **Cost-Effective:**
 - Litigation can be an expensive affair, and small and medium enterprises (SMEs) often find it difficult to bear the high costs. ODR can help reduce costs by eliminating the need for physical hearings, travel, and other related expenses.
- **Access to Justice:**
 - India is a diverse country with a large population, and many people in remote areas do not have easy access to courts. ODR can help bridge this gap by providing a platform for remote dispute resolution.
- **Increased Efficiency:**
 - ODR can be **more efficient than traditional dispute resolution methods** as it uses technology to streamline the process. This can lead to faster resolution of disputes and reduce the burden on the judiciary.
- **Better Compliance:**
 - ODR can **help improve compliance as it provides a structured process for dispute resolution**. This can help businesses avoid disputes in the first place by ensuring that contracts are clear and that all parties are aware of their obligations.

What are the Challenges with Online Dispute Redressal?

- **Lack of Physical Presence:**
 - ODR takes place entirely in the digital realm, which makes it challenging to verify the identity of the parties involved in a dispute. This **lack of physical presence can also make it difficult to enforce judgments**, as there is no way to physically seize assets or property.
- **Jurisdictional Issues:**
 - Online transactions can **involve parties from different countries**, which can create jurisdictional challenges. Different countries have different laws, and it can be difficult to determine which laws apply to a particular dispute. This can make it challenging to enforce judgments, as there may be conflicting laws or no legal framework in place for cross-border enforcement.
- **Privacy Concerns:**
 - ODR platforms **must balance the need for privacy with the need for transparency**. Parties may be hesitant to share sensitive information online, which can hinder the resolution process. Additionally, online platforms must comply with data privacy laws, which can be challenging in cross-border disputes.
- **Technology Limitations:**
 - ODR platforms **rely on technology, which can be vulnerable to technical glitches or cyber attacks**. Technical issues can delay or disrupt the resolution process and cyber-attacks can compromise the security of sensitive information.
- **Limited Access to Justice:**
 - Not all parties have **equal access to ODR platforms, which can exacerbate power imbalances**.
 - For example, **parties with limited financial resources may not be able to access the necessary technology** or legal support to participate in ODR. This can result in unequal outcomes and undermine the legitimacy of the ODR process.

What Should be the Way Forward?

- **Incentivise use of ODR:**
 - **Government can incentivise use of ODR by way of legislative measures** such as **setting ODR as a default dispute resolution tool** for categories of disputes arising out of online transactions, fast-tracking enforcement of ODR outcomes, and exempting or reducing stamp duty and court fees.
- **Solving Infrastructural Challenges:**

- Government **needs to address the Infrastructural challenges, curb the [digital divide](#),** and catalyse ODR's growth by optimising existing setups such as [Aadhaar kendras](#) to also function as ODR kiosks.
- Each court can have an **ODR cell along with supplemental technical and administrative support.**
- On the lines of the finance minister allocating Rs. 7,000 crore for the third phase of the [e-Courts project](#) in the [Union Budget 2023](#) (aimed at digitising the justice system), **a dedicated fund must be set up for furthering ODR.**
- **Exploring ODR as a Grievance Redress Mechanism:**
 - Government departments should **explore ODR as a grievance redress mechanism.**
 - Proactive use of ODR by government entities **will not only increase trust in the process but also ensure that citizens have access to a convenient** and cost-effective means of resolving disputes with the government.

Drishti Mains Question

How can Online Dispute Resolution (ODR) empower India's business environment and what steps can be taken to effectively implement and promote ODR mechanisms across industries and regions in the country?

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