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From Traditional ADR to Online Dispute Resolution: A Legal Analysis of E-Commerce Disputes in India

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Abstract: Alternative Dispute Resolution is the process of Online Dispute Resolution as it applies to the Indian legal landscape in relation to its use and its efficacy in settling E-commerce disputes. It critically analyzes the legal frames, technological and policy integration, which propel ODR as a viable substitute to the harried traditional justice system in India. The consideration of information and communication technologies early, such as artificial intelligence to the dispute resolution process have yielded immediate innovative results, which means that the methods of resolving disputes have changed radically by the digital as well as in India. The necessity to address the massive number of conflicts arising as a consequence of electronic transactions surpassing the boundaries of conventional litigation to resolve with friendly and cost saving measures within timely fashion is the major factor behind such change. The variation highlights the need of effective, convenient and economical legal processes, especially because the Indian population is high and heterogeneous with a wide range of legal problems. Moreover, all the rising rates of conflicts demand some paradigm shift in the more traditional methods of courts not on the behalf of the more adaptive and technological approach, particularly in the e-commerce market which is growing at an unprecedented rate.

KEYWORDS: Online Dispute Resolution; E-commerce Disputes; India; Legal Framework; Digital Transformation.

INTRODUCTION

This expansion in e-commerce in India has placed concomitant expansion in the consumer disputes that have imposed a tension on the conventional dispute resolution frameworks since they have several fundamental constraints on managing cross-border, large volume, and low value claims. This has necessitated the need to identify and embrace the Online Dispute Resolution as a viable option, by making use of technology to offer a smoother and availed path towards administering justice. In this regard, the paper shall examine the evolution of Dispute resolution as an extension of traditional

Alternative Dispute Resolution methods into the thriving discipline of ODR, against the Indian e-commerce scene in this instance. It is a critical analysis of the legal provisions, i.e. the Consumer Protection Act of 2019, and the integrations that have taken place regarding technology that have led to the adaption of ODR in India and its effectiveness in lightening the burden on an already burdened judiciary system. Moreover, this discussion goes further to examine the strengths and weaknesses of ODR, as well as the prime areas to improve upon to make sure it can be used universally and fairly by the representatives of various socioeconomic layers. The

growing complexity of e-commerce transactions, especially business to consumer cases, often results in consumers experiencing problems in salvaging problems relating to non-delivery or poor product specifications. Such problems commonly require a simplified, open-access process of dispute resolution that conventional litigation, its delays and costs inherent to it, can hardly offer. As a result, Online Dispute Resolution becomes a key innovation, which presents a technologically oriented solution to dispute resolution in the most efficient and economic way and, therefore, to modernize the judicial system and make justice more affordable to a large number of people. In India, the need to have an efficient, accessible, and cost-effective legal process is even augmented by the digital revolution that seems to have become an established trend, which makes specific legislative framework on ODR not only advantageous, but a necessity. Although ODR has a potential of transformation in India, its successful enforcement still depends on the ability to overcome the major technical and legal challenges with the help of integrated guidelines and powerful capacity-building programs. In this paper, the provisions of major regulatory measures in the context of investor protection and market efficiency in the Indian securities market will be critically reviewed by looking at provisions of major regulatory measures, including the Online Dispute Resolution Circular of the formulation of the Securities and Exchange Board of India.

2. Traditional Alternative Dispute Resolution (ADR) in India

In the past, arbitration, mediation, and conciliation have been used in India to come up with out-of-court settlements in disputes, with these procedures being mainly governed by the code Civil Procedure. Nevertheless, the emergence of e-commerce and the fundamental constraints of these conventional ADR mechanisms to resolve cross-border, scale and low-value online disputes have brought about a need to transition to technologically enhanced solutions. The trend highlights the increasing awareness that traditional ADR, despite its usefulness, is not scalable or digitalized enough in online business to accommodate the sophistication of the current e-commerce dealings. Accordingly, the Indian legal environment is also starting to consider the incorporation of the Online Dispute Resolution platforms in a bid to utilise digital technologies in providing more efficient, accessible yet affordable dispute resolution service to solve e-commerce related complains. This change is especially relevant since the Indian judiciary is extremely overworked and is unable to manage a large number of cases and tendentiously prevents access to justice on time. The general illiteracy of the population on ODR and the recourse to the old ways of accessing a court also

hinder its general acceptance even if it is likely to make the conventional justice system much less busy. My recommendations on overcoming this doubt and raising awareness about the benefits of ODR are that it should incorporate more widely and effectively resolve a dispute. The Supreme Court of India has been much encouraging of ADR in light of these challenges, highlighting the desirability of pre-litigation mediation to overcome the vast delays in litigation. This court promotion underlines the need to support such alternative dispute resolution methods as mediation and arbitration that are frequently praised due to their cost-effectiveness, efficiency, and confidentiality. Economic reforms encouraged institutionalization of Indian ADR centers, resulting in major research and revision, including the addition of Section 89 to the CPC of India, 1908, which permitted judges to consider ADR alternatives. This act of amendment in the form of Section 89 in the civil procedure code makes it easier to refer to the many ADR mechanisms such as arbitration, conciliation, judicial settlement or mediation and hence, helping to reduce the burden in the court and providing quicker solutions. This law exemplifies the desire by the state to assist in incorporating extrajudicial procedures, thus promoting out of court settlements to help reduce the proliferating numbers of cases in the formal court system.

3. Emergence of Online Dispute Resolution (ODR)

The proliferation of e-commerce transactions has inevitably led to a surge in digital disputes, necessitating innovative resolution mechanisms beyond traditional litigation. Information and communication technologies find a powerful solution in the Online Dispute Resolution, in that the Internet provides an opportunity to deal with the specialties of cross-border, high-volume, and even low-value e-commerce disputes, which traditional judicial pathways could use poorly. This renders ODR to be especially applicable to the Indian scenario whereby a formal judiciary is burdened with a colossal landmark of more than 40 million cases. As a result, the reinforcement of the ODR system is expected to significantly lessen the pressure on the traditional legal system and help it resolve cases faster and more effectively. In fact, in 1999, the Code of Civil Procedure (in force since 2002) codified in Section 89 officially incorporated several alternative methods of ADR, such as mediation, conciliation and arbitration into the judicial process and granted the court the authority to direct a dispute to such alternative avenues. This law should enable faster and streamlined dispute resolution, reducing the large volume of cases that Indian courts currently have to resolve. The introduction of digital technologies to these ADR procedures, especially ODR, is a remarkable development, which provides greater

accessibility and efficiency in case of the resolution of disputes caused by the digital economy. This is called ODR technological integration; it is set to be the fourth party into dispute resolution and is going to change the scene by increasing access to remedies and simplifying the processes, especially when dealing with e-commerce dispute. This contains its potential in making justice more accessible, reducing the number of cases in the backlog, and improving the score of India in the ease of doing business index. The high development pace of digital technology, especially in such aspects as artificial intelligence, big data analytics and others, additionally improves the ability of ODR to optimize dispute resolution through trends, network decision-making and recommendation of similar legal solutions in different jurisdictions. This technological development has made ODR an important aspect of enhancing confidence in online transactions and processes, which eventually contributes to consumer confidence in the growing digital economy. The Indian government has proactively encouraged the development of ODRs, which have included plans like the Indian Alternate Dispute Resolution Challenge to encourage the creation of online mediation forums with a network of qualified mediators in the nation. This proactive attitude is to make ODR mainstream as a workable and efficient system of resolving disputes especially through e-commerce.

4. Legal Framework for ODR in India

Despite having no sovereign law of ODR in place in India, the existing legal principles and laws that administer the conventional systems of Alternative Dispute Resolution, namely, the Arbitration and Conciliation Act of 1996 and Section 89 of the Civil Procedure Code provide a theoretical source to the ODR practice. However, these conventional frames connected with the specifics of online disputes have to be interpreted closely and re-adjusted, specifically, the jurisdiction sphere, the feasibility of e-agreements, and the distance evidence. Furthermore, the fact that the application of digital technologies to dispute resolution also provides several new legal issues related to privacy of data and data protection along with the validity of digital communication.

4.1. Information Technology Act, 2000 and its Amendments

The Information Technology Act of 2000 and its subsequent amendments play a crucial role in providing legal recognition to electronic transactions and communications, which is what facilitates the validity and enforceability of online processes of resolving of disputes. This legislation confirms the validity of contracts and digital signatures electronically and therefore lays the legal foundation of contracts and actions undertaken within an ODR layout. More specifically, the IT Act, in Section 4,

establishes the legal enforceability of electronic records, in assistive detail of a electronic arbitral processes Section 5 and the electronic contract in Section 10A, which secure the legal efficiency of an electronic mediation procedure and a contract to mediate online. Such provisions are essential in ensuring that awards and settlements recovered in ODR proceedings are enforceable, and they agree with the law concerning traditional resolution outcomes in dispute resolution procedures.

4.2. Recognition and Enforceability of Electronic Contracts

The role of the electronic contract law in the context of Information Technology and its parts in the Indian context and specifically the Information technology act of 2000 has been of significance in giving a legitimacy of a valid contract legally binding and enforceable in the realm of online dispute resolution. This law ensures that the transactions carried out and signed electronically are rendered legally binding similar to those done on paper; a condition necessary to complete the ODR processes and the enforceability of its outcomes. The latter legal recognition is applicable to the principle of ODR, according to which the disputes tend to reduce to the e-commerce transactions, which are of digital form. Moreover, the Act briefly touches upon such a critical question as the attribution, recognition, and dispatch of electronic records and assists in removing possible misunderstandings in the creation of the online contracts and their execution.

4.3. Jurisdictional Challenges in Online Disputes

The use of internet as a means of borderless communication in itself is a tremendous challenge in locating the appropriate arena through which to adjudicate the e-commerce dispute since it becomes very difficult to enforce the national laws and execute the outcomes of the ODR. This is more prominent in cross border e-commerce transactions, whereby the parties may be residing in different jurisdictions, which have their individual legal frameworks and rules of procedures. The jurisdictional complexities are also fueled by the fact that no worldwide law has been set up to regulate the transactions of the internet and the subsequent emphasis of optic on the provisions of the principles of the international law of privateness and forums selection have to be taken into account when designing electronic contracts. In this situation, provisions of law and jurisdiction provided as terms and conditions of e-commerce websites become eminent in establishing some degree of predictability and confidence in resolving disputes. However, the enforcement of these clauses might be a contentious issue, particularly the cases of consumer protection, party autonomy might conflict with the obligatory local law, and hence significant difficulties to the finality and enforceability of the

ODR findings can be predicted.

4.4. Role of Regulatory Bodies in Promoting ODR

It is realized that ODR possesses a transformative nature and that in this regard, different regulatory bodies in India are exploring to request and implement systems that will lead to the wider acceptance of the concept in the e-commerce ecosystem that will complement the underlying legislation. These efforts typically focus on providing sector-related guidelines, ethical codes of ODR providers, and accreditation, to ensure the competence and equity of internet dispute resolution systems. To illustrate, regulators have begun to view the specifics of digital platforms as third-party confrontational, which requires particular approaches towards fighting traditional bilateral confrontations.

5. Comparative Analysis: Traditional ADR vs. ODR for E-Commerce Disputes

This part will elaborate a thorough comparison between conventional Alternative Dispute Resolution systems and the Online Dispute Resolution systems, particularly, comparing their effectiveness and relevance in addressing disputes that occur in the context of e-commerce transactions in India.

5.1. Efficiency and Cost-Effectiveness

The possibility to offer more efficient and less costly solutions than traditional ADR has been closely attributed to the ODR mechanisms due to the geographical barriers being taken away, and the logistical overheads were decreased. Many ODR platforms also take the timing asynchronous meaning that participants can find time to participate in them as conveniently as possible without creating too much commotion that would disfigure their daily routines and business operations. This intrinsic elasticity of purpose and can imply a leaner process, in most instances with lapsed dispute resolution times and costs that are considerably decreased about travel, rent charges and document set up costs compared to the classical method.

5.2. Accessibility and Convenience

ODR platforms are also digital in nature which suggests accessibility since geographical and physical boundaries are eliminated, enabling people in remote areas or with mobility problems to engage in the process of dispute resolution that would not otherwise be available. In addition, ODR is unmatched in terms of convenience and allows parties to participate in dispute resolution regardless of their location as long as they have internet connectivity, which enhances the rates of participation, which leads to a more inclusive environment of dispute resolution. Such increased

access and ease of use is especially helpful in the framework of e-commerce with conflicts often embracing parties geographically separated, either by region or even country, and face-to-face communication being impractical or prohibitively costly. Moreover, the possibility to conduct the proceedings asynchronously and the right to use digital communication tools may save much time and efforts spent by all parties and facilitate faster resolutions.

5.3. Confidentiality and Privacy Concerns

Although the degree of confidentiality offered by traditional ADR mechanisms is typically high due to the privacy of the proceedings, the digital character of ODR involves new complexities associated with data protection, privacy, and cyber attack risks. This requires a high-level encryption algorithm, data security, and a strict incorporation of data protection laws to ensure trust in the ODR process. Thus, it is essential to comprehend and respond to these digital vulnerabilities so that ODR platforms maintain the same, or increased, level of confidentiality and privacy as their traditional equivalents. Besides, cryptography and the injection of blockchain technology have the potential to improve the safety and integrity of ODR records further, and these methods may be used to respond to the doubts regarding the integrity of data and the lack of unauthorized access.

5.4. Enforcement and Legal Validity

The validity/enforceability of ODR outcomes, in particular in terms of various jurisdictions, is an important factor, which mostly relies on the national and international legal systems of handling electronic contracts and awards of arbitrators. The incorporation of ODR into the mainstream legal frameworks, therefore, needs explicit legislations that guarantee that the agreements and decisions made electronically can be accorded the same weight as limitations on the traditional dispute settlement procedures. Nonetheless, the infancy of applying ODR, particularly in such jurisdictions as India, requires particular attention to how the digital mechanisms can be reconciled with the existent legal rules regulating the contractual commitment and the award enforcement. This requires a strong legal system that can solve problems of jurisdiction, authentication of digital evidence, and cross-border acknowledgement of ODR decisions considering that e-commerce activities are cross-border

CONCLUSION

The paper has presented a legal overview on the transformation of the conventional ADR to the Online Dispute Resolution in the Indian e-commerce dispute resolution sphere, detailing the regulatory framework and disadvantages and advantages of

each. It has already been made clear that although ODR has promising advantages of greater accessibility, efficiency, and cost-effectiveness, it also possesses its distinct problems concerning the security and privacy of information as well as the enforceability of awards. Thus, the way forward in this area should focus on developing strong regulatory frameworks capable of mitigating these computer weaknesses and the smooth incorporation of ODR in the current legal frameworks. This involves the legalization of electronic documents and electronics signatures, and the difficulties related to handling virtual hearings and cross-examination of witnesses online. Such frameworks will also have to factor in the requirement of specialized judicial training to address technology-based conflicts and harmonization of national and international regulation of ODRs to aid cross-border enforcement. Moreover, such difficulties like the possibility of AI error in decision-making and rather high prices of complex ODR systems are the challenges that require identifying and solving to make ODR models effective. Nevertheless, the further evolution of ODR is essential to adjust the dispute resolution to the requirements of the globally connective and dynamically changing digital economy, as the application of artificial intelligence and other technologies becoming more embedded in these systems. Finally, establishing legal commitment by concretizing ODR in e-commerce dispute resolution systems will make ODR not only a feasible option but also a first instance legal practice in cases of internet related nature.

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