
CLOSING THE IMPLEMENTATION GAP: REDEFINING INDIA'S LAWFUL ARCHITECTURE FOR ONLINE DISPUTE RESOLUTION

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ABSTRACT

Online dispute resolution (ODR) has been identified as an integral part of India's access to justice policy narrative and is included in India's policy blueprint scheme, Mediation Act, 2023 as a method of conducting mediations online. Yet, there has been a lack of procedural and regulatory structure to ensure that ODR is an effective alternative to, and not merely a subpar path parallel to, formal adjudication. When no clear statutory authority exists for electronic procedure, courts have attempted to fix the doctrinal holes (notably, service of process by messaging apps). The approach of the regulators, has been to choose a voluntary and self-regulatory model for ODR platforms, as opposed to minimum standards. The enforcement path for online mediated settlements remains unclear, with some uncertainty of how enforcement and challenge should co-exist and of how settlements created online should be authenticated. India's new comprehensive data protection legislation is a welcome development, but more needs to be done to tailor it to the specific challenges to ODR platforms. This paper is predicated on the belief that targeted statutory reform is needed to the Indian ODR framework, but more so because the legal basis of ODR in India is too weak to support the onus the government has placed on it, rather than because ODR is the wrong tool to address the access-to-justice crisis. It proposes five specific reforms based on lessons from the EU and Singapore, namely: codified standards for electronic service, binding accreditation regime for ODR platforms, statutory clarity of interaction between enforcement and challenge under the Mediation Act, ODR-specific application of the new data protection framework in India and budgeted hybrid access infrastructure to avoid exacerbation of the very access gaps to be addressed through ODR.

I. Introduction

The typical remedy for the pending load in Indian courts is alternative dispute resolution, or arbitration, conciliation, and -- more recently -- mediation. That recipe has been enhanced by a digital layer over the past five years. Online dispute resolution (ODR), generally defined as the use of information and communication technology for the prevention, management and resolution of disputes, has transitioned from a marginal experiment to an expressed a part of the government policy.

The committee, led by former Supreme Court judge A.K. Sikri, has laid out the NITI Aayog's policy in its 2021 report *Designing the Future of Dispute Resolution: The ODR Policy Plan for India*.¹ The report argues that ODR should not be seen as a special edifice, but as a tool to increase access to justice more broadly and suggests that there are three levels of activity that can get ODR moving: structural, working on digital literacy and infrastructure; behavioural, shifting the culture of government; and regulatory, which must be “soft-touch” in order to let the ecosystem flourish before it is regulated. Former Justice D.Y Chandrachud, chairman of the Supreme Court's e-Committee, while chairing the committee's proceedings, agreed with the rationale behind such a move noting that cases like motor accidents, cheque bouncers and personal injury cases should not clog the Supreme Court's dockets.

As a result, there have been some changes in the legislative environment. Under the Mediation Act, 2023, a whole chapter is dedicated to online mediation, which allows for mediation to be carried out online at any stage upon the written consent of the parties. Consumer Protection (E-Commerce) Rules, 2020 put grievance redressal timelines on e-commerce entities which has been one factor, putting regulatory pressure that has led platforms and sectors like banking to digital grievance-redressal tools. Then, in 2023, PARLIAMENT enacted the first comprehensive data protection law in India, the Digital Personal Data Protection Act, not specifically crafted with ODR in view, but in which much of the personal and financial data which ODR platforms are required to process falls.² These are all elements of a whole-of-gov approach to ODR as intended by government messaging.

The thesis of this paper is that this strategy is coherent with respect to aspiration and not

¹ NITI Aayog Comm. on Online Dispute Resolution, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 7-9 (2021) [hereinafter NITI Aayog Report].

²Digital Personal Data Protection Act, No. 22 of 2023, INDIA CODE (India).

architecture. India has come up with the policy case for ODR at a pace that outstrips the development of the procedural rules, enforcement mechanisms and regulatory guardrails ODR needs to be truly a form of access to justice rather than a faster, cheaper but thinner version of access to justice. A difference is illustrated with 5 symptoms. First, in the absence of any clear statutory basis for electronic modes of service, the courts have had to improvise; most notably, the courts have allowed for service of legal notice by a message application – a doctrinal fix, not designed. Second, even though the risks to ODR platforms are pointed out in the report, there is no binding requirement that ODR platforms be neutral, process data or ensure their algorithms are fair; the NITI Aayog prefers self-regulation. Third, the Mediation Act's online mediation chapter is overlaid on an enforcement system with one to which challenge proceedings are not clearly defined, especially when it comes to online mediation settlements, in which the authentication and tamper-evidence of the physical counterparts is not as easily established. Fourth, the Digital Personal Data Protection Act now establishes a general privacy regime, but the rules were only notified in November 2025, and the provisions will take effect over the course of 2027, with an open-ended period where there is no specific guidance on the application of the consent, breach-notification and retention obligations of the Act to dispute-resolution platforms. In fifth place, the digital divide that prompted ODR's promise as an access-to-justice mechanism is the reason why ODR will not be accessible to the most vulnerable litigants.

There are 5 parts to the paper. Part II explains the policy and legislative arguments for ODR in India and its incremental implementation in various sectors. Part III shows where that case has outgrown its legal foundations. In part IV, some of the points of comparison from the European Union and Singapore are briefly discussed to illustrate what a more comprehensive architecture might look like. Part VI addresses the strongest possible objection to regulation -- that regulation today would smother an ecosystem just taking its first steps -- and why calibrated, minimally intrusive regulation is compatible with ongoing growth.

II. The Promise: ODR as India's Answer to the Access-to-Justice Crisis

The rationale for ODR in India is simple – that the courts are too slow, too cumbersome and too physically out-of-reach for the number and nature of disputes ordinary litigants bring, especially low-value consumer, banking or motor-accident claims. Even the report of the NITI Aayog committee had addressed this very acute problem that was brought into sharp focus

during the Covid-19 pandemic when the functioning of courts was drastically curtailed and reaching courts was even difficult for many litigants.

There are many aspects to the recommendations made in the NITI Aayog report. Structurally, it advocates for investments in digital literacy, infrastructure, and professional neutral training. On the behavioural level, it encourages government departments and ministries to use ODR for their own conflicts, with the hope that state use will encourage private parties to use it. It is designed as light-touch, principles-based self-regulation, drawing inspiration from Sahamati, a self-regulatory organisation in the financial ecosystem of account-aggregators, in setting and enforcing the rules.

There has been some legislation follow-through, albeit limited. The Mediation Act, 2023, which received Presidential assent in September 2023, has an entire chapter dedicated to online mediation, Chapter VII. The main scheme of the Act, as reflected in its long title, which includes pre-litigation mediation, community mediation and the establishment of a Mediation Council of India, was conceived to make online mediation acceptable and cost effective and mediation itself can be conducted online at any stage of the proceeding with consent of the parties in writing as per Section 30 of the Act.³ In addition, the Consumer Protection (E-Commerce) Rules, 2020 make it mandatory for e-commerce entities to have a grievance officer, acknowledge complaints within 48 hours and resolve them within a month.⁴ The Rules do not explicitly require ODR as such, but the requirement for redressal timelines under the Rules has rendered platforms with automated technology-driven grievance and dispute resolution tools more of a necessity than a choice.

Beyond e-commerce, the sectoral rollout of ODR-adjacent tools is also being extended. In banking, the Reserve Bank of India's Banking Ombudsman Scheme has progressed towards digital grievance-redressal platforms, which the NITI Aayog report quotes as an early example of ODR's efficacy -- fewer turnaround times and the cost of resolution as compared to the traditional grievance mechanism. The insurance industry has been in a similar situation, with more digital tools for claim settlement and grievance being embedded in insurers' consumer solutions. But several private ODR providers have now developed negotiation, mediation and arbitration services for high-volume, low-value disputes – credit card defaults, e-commerce

³ The Mediation Act, No. 32 of 2023, ch. VII, § 30, INDIA CODE (India).

⁴ Consumer Protection (E-Commerce) Rules, 2020, r. 4(4), G.S.R. 462(E) (India) (grievance acknowledgment within 48 hours and redressal within one month).

return, cheque-bounce claims – exactly the kind of disputes that Justice Chandrachud pointed out would be appropriate for diversion from the courts.⁵

All these events combined, suggest genuine optimism. India is not lacking in policy will, legislative hooks or institutional buy-in to make ODR a meaningful part of the dispute-resolution landscape. What it is missing, as Part III shows, is the legal glue that makes policy aspirations come alive as a system on which litigants can rely.

III. The Gap: Policy Ambition Without Procedural Infrastructure

A. Without Enforceable Standards of Self-Regulation

The NITI Aayog report had deliberately opted for a soft-touch and self-regulatory approach to ODR platforms: it felt that binding regulation, at this early stage, would smother an emerging ecosystem, and a self-regulatory body, modelled on Sahamati, could be established to provide design and ethical principles while ODR platforms have space for innovation.⁶ This is a sound argument for an emerging sector. But that is in tension with the same report's recognition of the risks involved, such as the potential for tampering with award and settlement documents delivered electronically, and, at the time of the report, the lack of any comprehensive data protection law to regulate the sensitive personal and financial information that necessarily is stored on ODR platforms.⁷ A self-regulatory body can establish requirements for its members, but it can't require non-members to meet these requirements, can't impose binding sanctions on a platform that didn't handle a litigant's dispute to their satisfaction and can't ensure a disappointed litigant is able to obtain a remedy against a platform that did not handle the dispute to their satisfaction. That lack of accountability is no minor design issue for a process that's supposed to be an access to justice mechanism for the people who can least afford to pay for being wrong.

B. Judicial Improvisation to Fill Statutory Silence

The most indicative instance of the ODR system outstripping the Indian procedural law is India's treatment of electronic service. Further, in *SBI Cards & Payments Services Pvt. Ltd. v.*

⁵ Press Release, NITI Aayog, NITI Aayog Pushes for Online Dispute Resolution for Speedy Access to Justice (Nov. 29, 2021), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1776202>.

⁶ NITI Aayog Report, *supra* note 1, at 41-43 (discussing Sahamati, the self-regulatory organisation for the account aggregator ecosystem, as a template for ODR self-regulation).

⁷ NITI Aayog Report, *supra* note 1, at 55-57.

Rohidas Jadhav, the Bombay High Court held that a bank can serve litigation notice upon a defendant through a messaging application, if it has tried all reasonable means to locate him and the delivery and read receipts on the platform constitute service. The result was practical and in the facts, possibly equitable. But there were also judicial workarounds for another gap in Order V of the Code of Civil Procedure: there are no comprehensive legislative rules governing when an electronic notice, summons, or process is properly served, the sufficiency of reliable proof of delivery, and how courts will deal with the platforms that provide read receipts that can be spoofed, disabled, or simply misread by the unrepresented litigant. This would be a judge's ad hoc decision and would be dependent on whether the judge hearing the case recognized the technology and that judge's perception of reliability of the technology - the very sort of unpredictability that undermines trust in a justice system in person or online.

C. Under the Mediation Act, 2023, the enforcement process has been made less cumbersome

A corresponding level of clarity in enforcement is lacking in the online mediation chapter of the Mediation Act. Under the Act a mediated settlement agreement is made binding in the same way as a court order under section 27 and can also be appealed on certain grounds under section 28. The Act is not clear on whether commencement of challenge proceedings ipso facto suspends enforcement – a position made clear by the Arbitration and Conciliation Act, 1996, as amended in 2015-16 for arbitral awards and left to the courts to determine under the Mediation Act.⁸ It's an open interpretive question, and already commentators have pointed out that it promises its own litigation.⁹ That ambiguity is more relevant to settlements mediated online than those mediated offline, as the concern the NITI Aayog report itself put forward, namely, the risk of tampering with the digitally delivered agreement, means that courts considering a challenge to an agreement under section 28 of the Societies Act may well have to wrestle with questions of authentication that may not arise in the case of a wet-ink signature on a physical document. To leave the stay question and authentication issue to case-by-case judicial resolution injects exactly what ODR, and mediation in general, is supposed to avoid: delay and unpredictability.

⁸ Arbitration and Conciliation (Amendment) Act, No. 3 of 2016, § 36, INDIA CODE (India) (amending the Arbitration and Conciliation Act, 1996 to provide that a challenge under section 34 does not automatically stay enforcement).

⁹ Anjali Anchayil & Kshama Loya, The Mediation Act, 2023: India Paves the Way for a New Mediation Law -- Part II, Kluwer Mediation Blog (2023), <https://mediationblog.kluwerarbitration.com>.

D. A Data Protection Framework that is not yet ODR Adapted

The lack of a comprehensive statute for the protection of privacy was for years the one feature of the regulatory landscape that was most often cited as a gap in the ODR literature and that was considered to be a live issue in the NITI Aayog report.¹⁰ Some of that gap has now been filled: the Digital Personal Data Protection Act, 2023, provides a general framework for consent, purpose limitation, breach notification and duties of data fiduciaries and implementing rules were notified in November 2025.¹¹ It's a real improvement. But the Act starts on a series of dates that extend through May 2027, and the Act itself and the rules are silent on dispute-resolution platforms -- the ones that, by their nature, frequently handle sensitive types of information, such as financial account details in a banking dispute, health information in a personal injury claim, evidence of a domestic or commercial relationship's breakdown in a family or business mediation. What is a "significant data fiduciary" requiring greater obligations, when to provide notice after a settlement platform is hacked or when disputes are settled, and how long to keep dispute records after a dispute concludes are questions the general statute leaves to be negotiated industry by industry, and so far, dispute resolution hasn't been that industry.

E. The Digital Divide is Not Only an Infrastructure One Problem but Also an Access-to-Justice Problem

The NITI Aayog report is forthright that the promise of access to justice of ODR depends on bridging India's digital divide first and that the lack of digital literacy and infrastructure, especially in rural and remote areas, are structural challenges to the entire effort.¹² It is a big concession: an 'universal access to justice' machine can inadvertently move the access problem from being a problem of distance (to a court) to an issue of connectivity and literacy (to a smartphone, a proper connection and the ability to navigate a digital platform, often in a language other than the local one, and only in English or Hindi). Similarly, the report itself offers only aspirational, not budgeted or time-bound, commitments on this point, which further

¹⁰ NITI Aayog Report, *supra* note 1, at 55-57 (identifying data security, privacy, and tampering of digitally delivered awards and agreements as risks associated with ODR adoption).

¹¹ Digital Personal Data Protection Rules, 2025, notified Nov. 13, 2025 (India) (providing procedural and enforcement guidance under the DPDP Act).

¹² NITI Aayog Report, *supra* note 1, at 16-19, 60-63 (identifying digital literacy and infrastructure gaps, particularly in rural areas, as structural risks to ODR adoption).

means that the population ODR is most frequently “called upon to help” is the population least likely to benefit from ODR as it is currently practiced.

IV. Incorporating comparative frameworks into learning

India doesn't need to start from scratch to come up with these fixes. In other jurisdictions which have already adopted ODR earlier, some of the connective legal tissues which India is missing have been already developed and their decisions are instructive even when India's institutional context is different.

The European Union's ODR Regulation, which has been in effect since 2016, established a centralised platform for consumer disputes and, crucially, imposed formal accreditation to the platform based on national authorities' quality criteria, including expertise, independence, transparency, and procedural fairness.¹³ The EU model demonstrates that binding accreditation and rapid adoption of consumer ODR are not in conflict, because this regulation did not slow the growth of consumer ODR in Europe, but rather provided consumers with a baseline certainty that any platform accessible by the official portal was at least meeting minimum standards, making businesses and consumers more willing to use it.

Singapore has another, but related, lesson. It has built its online and technology-enabled mediation practice within an already well-established institutional structure -- with entities like the Singapore Mediation Centre already having standards and accreditation for mediators before the advent of online mediation -- thus not building a quality-assurance system from scratch.¹⁴ In contrast, India is attempting to develop the accreditation framework and the online modality and mass adoption at the same time, which is where the gaps mentioned in Part III have come about.

Both comparisons indicate that India should not import a foreign model wholesale; India's caseload volume, linguistic diversity, and constraints on digital-access are different than both jurisdictions. However, both show how a single structural construction point can be made: binding minimum standards and extensive and quick adoption of ODR do not have to be

¹³Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on Online Dispute Resolution for Consumer Disputes, 2013 O.J. (L 165) 1 (establishing the EU's centralized ODR platform and accreditation requirements for connected ADR entities).

¹⁴ Mediation Act, 2017 (Act 1 of 2017), s.12(sing.).

mutually exclusive design objectives.

V. Reform Proposal

Targeted achievable legislative or regulatory solutions are available to address each gap identified in Part III. None involve giving up the ODR policy of India; each involves completing it.

1. Propose and/or establish standards for electronic service.

Parliament or the appropriate High Court rule-making power of the Code of Civil Procedure should provide for a structured framework for electronic service (what platforms, and which delivery mechanisms would constitute, the acceptable evidence of delivery and receipt, and the fall-back position when electronic service is challenged or fails). This would turn SBI Cards into a foreseeable, general rule, and insulate unrepresented litigants – the very people who are most likely to be the least familiar with the meaning of actual notice and a delivery or read receipt – from being deemed served on an unreliable proxy for actual notice.

2. Substitute Self-Regulation for a Mandatory Accreditation System

It is recommended that instead of voluntary self-regulatory body, there should be a statutory accreditation structure for ODR platforms and ODR providers, either through a dedicated body or an extension of the mandate of the Mediation Council of India under the Mediation Act. Accreditation could be linked to a tangible benefit, as the EU has done, such as eligibility to receive court-referred or government-department disputes, as a reward for compliance. Baseline requirements for online arbitrator qualifications and training; recordkeeping of awards and settlement agreements should be tamper evident; there should be a baseline grievance or appeal process if a party feels a platform has mishandled their case. It's not a case for a heavy-handed licensing approach to every ODR tool; it's a case for platforms dealing with binding or court-annexed disputes to meet standards that are not just aspirational.

3. Explain the Enforcement-Challenge-Interface for Online Settlements.

The Mediation Act should be amended or by rules, it should be made clear whether a section 28 challenge suspends section 27 enforcement, as is the case in the Arbitration and Conciliation

Act.¹⁵ Meanwhile, the rules of the Act should establish a specific authentication requirement for settlement agreements which are executed or delivered digitally, and for which there is a risk of tampering, as a condition of the enforcement of section 27, in order to preempt the same being litigated after the fact, as indicated by NITI Aayog.

4. Include Data Protection Framework in ODR-Specific Rules.

The Ministry of Electronics and Information Technology, which is responsible for overseeing the Digital Personal Data Protection Act, needs to provide specific guidance to the sector in the form of a Rules, Code of Practice or a formal clarification on the obligations of the Act in the context of ODR platforms.¹⁶ At least, this guidance should identify high-volume ODR platforms that process financial or health-related disputes as “significant data fiduciaries” by default, prescribe a timeline for breach notification depending on the nature of the dispute records and impose clear restrictions as to how long records of settled disputes may be retained. Now, while the provisions of the Act are being phased in over time, such a move would stop ODR from becoming a forgotten "edge case" after the Act goes fully into effect.

5. Invest in Hybrid Access Points, not merely in Aspirational Digital Literacy.

The government should ensure and allocate resources for 'assisted' ODR access points, such as physical kiosks, preferably as part of the existing Common Service Centres network, which will be manned by trained facilitators who can help an illiterate or less digitally-savvy litigant actually utilise an ODR platform.¹⁷ This turns the structural recommendations from the NITI Aayog report, which is an unfunded aspiration, into a measurable one, and the single most directly responsive to the report's own admission that the digital divide threatens the access-to-justice case for ODR.

VI. Addressing the Counterargument

The most powerful argument against this proposal is that it's premature: India's ODR ecosystem is still in its early stages and mandating binding rules, codification of procedures, and funded infrastructure at this early stage risks freezing-in rules around an evolving technology,

¹⁵ Arbitration and Conciliation (Amendment) Act, No. 3 of 2016, § 36, INDIA CODE (India); see supra note 19.

¹⁶ Ministry of Electronics and Information Technology, The Digital Personal Data Protection Act, 2023, <https://www.meity.gov.in> (last visited Aug. 17, 2026).

¹⁷ Ministry of Electronics and Information Technology, Common Services Centres Scheme, <https://csc.gov.in> (last visited Aug. 17, 2026) (describing the network of citizen access points for e-governance services).

discouraging private investment to date, and interfering with the very process of innovation that the NITI Aayog's soft-touch approach was meant to usher in.

There is some truth to this objection but it goes too far. None of the five reforms proposed in this paper restrict the technological or procedural form of ODR. A statutory electronic-service framework can be platform independent and set standards of evidence instead of identifying specific applications. An accreditation system can establish outcome-driven requirements (tamper evident recordkeeping, neutral qualifications, data security etc.) that does not prescribe how these standards should be met and, as has been shown through the EU experience, can be tailored so as to only apply to the platforms that engage in binding or court-annexed negotiations and not all negotiations platforms.¹⁸ The interface between the Mediation Act and enforcement is now clarified, which will reduce uncertainty and the disincentive to use online mediation for higher value and/or higher stakes cases. The DPDP Act's directions on ODR are not new or an additional compliance requirement, but rather an extension of the already enacted and binding statute to a sector otherwise left at guess work. More funds for hybrid access points do not dictate platforms; it's a public infrastructure promise, not a compliance obligation on industry. It's not a matter of light or heavy touch, freeing up or killing ODR. It lies between a legal system which allows ODR development to keep up with its policy aspirations, and a legal system where such policy aspirations remain permanently one step ahead of the law designed to achieve them.

VII. Conclusion

But the shift toward ODR in India is not just an abstract concept or a fleeting policy measure but a well-founded and indeed essential reaction to a real problem of access to justice, and the policy framework developed over the last few years (NITI Aayog's ODR Policy Plan, the online mediation chapter of the Mediation Act, the Consumer Protection (E-Commerce) Rules, and now the Digital Personal Data Protection Act) is not a "one-day wonder" but a serious institutional commitment. However, policy commitment is not the same as legal infrastructure, and an infrastructure gap is now beginning to show in real places: a High Court improvising service of process by using a messaging app when the Code of Civil Procedure does not address how electronic service should be done; an ODR industry asked to self-regulate, the most serious risks of which have been identified by experts the government has commissioned to study the

¹⁸ Regulation (EU) No 524/2013, *supra* note 25.

problem; a mediation law that is still unclear how to enforce if a mediated settlement is done electronically; a new data protection law that has yet to be adapted to the sector that most needs its guidance; and a digital-literacy problem that, whilst acknowledged by the government's own expert committee, has yet to be funded. The experience in other countries in the European Union and in Singapore indicates that these gaps are not a necessary consequence of a rapid progression towards ODR, but the result of sequencing decisions that can still be taken in India. But none of these gaps is an argument against ODR. Both are arguments for completing the statutory work that ODR's promise involves, and which is specific, feasible, and, in contrast to the access-to-justice problem it addresses, quite common for statutory reform efforts.