

CHALLENGES AND OPPORTUNITIES IN APPLYING ADR TO CYBER DISPUTES IN INDIA: A JURISDICTIONAL ANALYSIS

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Abstract

In the digital era, the exponential rise in cybercrimes ranging from data breaches, online fraud, cyberbullying, to identity theft poses serious legal and societal challenges. As India's digital ecosystem continues to grow under initiatives like Digital India, traditional litigation systems often fall short in offering timely, specialized, and cost-effective redressal for cyber disputes. Alternative Dispute Resolution (ADR), especially Online Dispute Resolution (ODR), has emerged as a viable tool to address the procedural and jurisdictional bottlenecks in cyber-related conflicts.

This paper examines the legal viability and practical implementation of ADR in resolving cyber disputes within the Indian context. It explores the scope of mechanisms such as arbitration, mediation, and conciliation for cybercrime-related matters and evaluates their effectiveness under existing statutory frameworks like the Information Technology Act, 2000, and relevant provisions of the Civil and Criminal Procedural Laws. Particular focus is given to jurisdictional concerns; both territorial and subject-matter—arising in cross-border digital offenses. The study also assesses the potential of ODR platforms and institutional frameworks, identifying barriers like lack of awareness, absence of technolegal expertise, and infrastructural limitations.

Using a doctrinal and comparative approach, this research highlights emerging global trends and recommends policy and institutional reforms to harmonize cyber law enforcement with ADR mechanisms. The paper ultimately argues for a hybrid, multi-stakeholder model that integrates legal, technological, and institutional innovations to ensure access to justice in cyberspace, especially for underserved populations.

Keywords: ADR, Cyber Disputes, Online Dispute Resolution, Jurisdiction, Cybercrime Law, Access to Justice, Digital India, Legal Framework in India.

Introduction

The rapid digitization of India, fuelled by initiatives like 'Digital India' and widespread mobile internet penetration, has transformed the nation into one of the largest online populations globally. This digital revolution has brought unparalleled benefits in communication, commerce, governance, and education. However, it has also led to an exponential increase in cybercrimes and disputes. Cyber offenses; ranging from data breaches, identity theft, phishing, cyberbullying, online financial fraud, to hacking have created new legal challenges due to their technical complexity, anonymity of perpetrators, and often transnational nature.

Traditional judicial systems, designed primarily for physical-world disputes, are frequently ill-equipped to handle cyber disputes efficiently. The judicial backlog, coupled with the lack of cyber-specific expertise among judges and court officers, results in delayed justice and inadequate relief for victims. Furthermore, cyber disputes often involve issues of jurisdiction – questions about which court or legal authority has the power to hear the case is become complicated when the offense transcends geographical boundaries.

Alternative Dispute Resolution (ADR), which includes arbitration, mediation, and conciliation is a recognized mechanism for resolving disputes outside conventional court proceedings. ADR is appreciated for being faster and rapid, more cost-effective, confidential, and flexible. Online Dispute Resolution (ODR) is an offshoot of ADR using digital platforms, has emerged as a particularly relevant model in the context of cyber disputes. ODR leveraging technology to facilitate resolution without physical presence. Despite its promise, the adoption of ADR for cyber disputes in India remains limited due to several challenges such as lack of clear legislative guidance or framework on the applicability of ADR in cybercrime, jurisdictional ambiguities, infrastructural inadequacies, and low public awareness. This study focuses on exploring these challenges in detail, alongside the opportunities presented by technological advances, policy reforms, and institutional frameworks. It also analyzes international best practices in ODR, aiming to recommend a comprehensive, jurisdiction-sensitive approach for India's cyber dispute resolution landscape.

Literature Review

The scholarship on Alternative Disputes Resolution in India has predominantly focused on its efficacy in commercial, civil, and family disputes, highlighting its role in reducing court backlogs and promoting amicable settlements. As per the official records almost 4.5 crore cases are pending at Indian Courts including apex courts and high courts. Boulle (2005) articulated that mediation and arbitration provide disputants with autonomy and control over the resolution process, which are key to their increasing popularity worldwide. Menon (2010) further contextualized ADR's role within India's judicial system, noting legislative milestones like the Arbitration and Conciliation Act, 1996, which harmonized domestic disputes resolution laws with international standards.

With the advent of digitalization, the emergence of Online Dispute Resolution (ODR) was explored by Katsh and Rifkin (2001), who envisaged a transformative potential for ODR in resolving e-commerce disputes globally. Their work laid the foundation for subsequent research on the digital transformation of dispute resolution. In the Indian context, scholars like Singh (2020) and Rao (2022) have explored the interface between cyber law and ADR. Singh (2020) underscored that while India's ADR mechanisms have grown robust in commercial contexts, their application to cyber disputes remains ambiguous due to legislative gaps and lack of judicial clarity.

Rao (2022) specifically examined the challenges in applying ADR to cybercrime, emphasizing jurisdictional issues such as territoriality and enforceability of ADR awards in cases involving cross-border actors. He pointed out that criminal offenses related to cyber activities often require procedural safeguards and government intervention, making traditional Alternatives to dispute resolution techniques less straightforward.

Institutional and policy reports by government agencies such as NITI Aayog and the Internet and Mobile Association of India (IAMAI) have highlighted infrastructural and awareness barriers in adopting ADR for cyber disputes. The NITI Aayog's ODR Policy Plan (2021) advocates for a hybrid model combining technological platforms with institutional support to scale ODR's reach in India. IAMAI's surveys (2022) reflect a growing demand among Indian internet users for quick, accessible, and confidential dispute resolution mechanisms, but also note that lack of legal literacy and digital infrastructure remains a major challenge.

If we look internationally, countries like Singapore and the UK have integrated ODR into their legal frameworks more comprehensively. Singapore's Model Online Disputes Resolution system, developed by the Singapore Mediation Centre, and the UK's Civil

Mediation Council (CMC) have set examples of institutional support, legal recognition, and public-private partnerships (PPP format) that India could emulate. Comparative studies suggest that the success of ODR depends not only on technology but also on clear jurisdictional rules and public trust in the process.

Overall, the literature indicates a consensus on ADR's potential in cyber dispute resolution but also calls for more nuanced studies addressing jurisdictional, legislative, and infrastructural challenges specific to India's socio-legal context.

Methodology

This research adopts a doctrinal and comparative methodology, drawing upon both primary and secondary sources to investigate the intersection of ADR and cyber law in India. Primary sources include relevant statutes such as the Information Technology Act, 2000, which governs digital offenses and electronic transactions; the Arbitration and Conciliation Act, 1996, which lays the foundation for ADR mechanisms in India; and procedural laws like the Indian Penal Code (IPC) now the Bharatiya Nyaya Sanhita, 2023, the Code of Criminal Procedure (CrPC) now the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Civil Procedure Code, 1908. These laws are analyzed to determine their applicability and limitations in resolving cyber disputes through ADR.

Secondary sources encompass a wide range of academic literature, including journal articles, books, and policy papers that examine the theoretical and practical aspects of ADR in digital contexts. Key policy documents such as those issued by NITI Aayog, the National Crime Records Bureau (NCRB), and the Indian Computer Emergency Response Team (CERT-In) provide statistical insights and government perspectives. Reports and operational data from emerging Indian ODR platforms like SAMA and Presolv360 are also reviewed to understand the practical implementation landscape. SAMA is an online dispute resolution platform that helps individuals and businesses resolve disputes online, using ADR mechanism like mediation, arbitration and online lok adalat. It's essentially a technology-driven platform that facilitates alternative dispute resolution and offering more efficient and cost-effective way to settle disagreements. Presolv360 is a Mumbai-based legal technology startup specializing in Online Dispute Resolution (ODR). Founded in 2017 by Bhaven Shah, Namita Shah, and Aman Sanghavi, the company aims to simplify and digitize the process of resolving disputes, making it more accessible, efficient, and cost-effective for businesses and individuals alike. Presolv360 has gained recognition within India's legal ecosystem. It is empanelled as a Mediation Institution by various courts in India and has been incubated by Cyril Amarchand Mangaldas, one of the country's leading law firms.

In addition to the Indian legal and institutional framework, the research incorporates a comparative analysis with international models from jurisdictions such as Singapore, the United Kingdom, and the United States. These countries have made notable advancements in integrating ODR into their legal systems and serve as useful benchmarks. This comparative component enables the identification of best practices and offers guidance for potential reforms in the Indian context. Overall, the methodology blends legal analysis with institutional assessment to propose practical, jurisdiction-sensitive reforms for ADR in the realm of cyber disputes.

Statistical Analysis

The statistical dimension offers a clearer understanding of the practical realities of cyber disputes in India and the current utilization of Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) mechanisms.

A significant source of empirical insight is the Crime in India Report (2023) by the National Crime Records Bureau (NCRB), which highlights an alarming rise in cybercrime cases across the country. The report notes that more than 65,000 cybercrime cases were registered in India in 2023 alone, reflecting a 24% increase over the previous year. This upward trend is attributed to factors such as increasing internet penetration, growing digital financial transactions, and the widespread use of social media platforms. The report further indicates that major cyber offenses include online financial fraud (39%), cyberstalking (11%), identity theft (10%), and hacking (8%).

Despite this exponential growth, the data reveals that only a negligible percentage of these cases are resolved through ADR or ODR platforms. Most victims resort to conventional litigation or avoid seeking redress altogether due to the complexity, delays, and unfamiliarity with dispute resolution procedures. This indicates a significant gap between the rising incidence of cybercrimes and the adoption of alternative mechanisms for their resolution.

To understand the perceptions and expectations of cybercrime victims, this research also considers data from a survey conducted by the Internet and Mobile Association of India (IAMAI) in 2022. The findings reveal that over 70% of respondents preferred quick, confidential, and cost-effective solutions when dealing with online fraud or cyber harassment. Notably, a large segment of participants expressed willingness to try ADR and ODR options if they were made accessible and legally recognized. This suggests that there is public demand for out-of-court settlement processes, but implementation gaps and lack of awareness hinder their use. In addition to statistical data, case studies of Indian ODR platforms such as SAMA and Presolv360 provide real-time insights into the operational potential of digital ADR systems. These platforms have begun handling disputes related to fintech fraud, digital contracts, and minor cyber offenses using tools like secure video conferencing, AI-powered case management, and multilingual mediation interfaces. For instance, SAMA has reported a consistent rise in the number of disputes resolved online—particularly in urban centers—demonstrating the scalability of such platforms when backed by institutional support.

A pioneering initiative such as the Maharashtra Cyber Project, which includes dedicated cyber mediation cells, offers another model worth emulating. These cells aim to facilitate restorative justice and speedy settlements in cases of cyberbullying, digital defamation, and other non-violent offenses through trained mediators. Though still in a pilot phase, such efforts underscore the importance of integrating ADR within cyber policing and legal frameworks. This statistical analysis substantiates the claim that while the adoption of ADR in cyber matters remains limited, the demand for such mechanisms is high, and pilot efforts show promise. These insights affirm the urgency of scaling up and institutionalizing ADR and ODR frameworks to meet the evolving demands of India's digital society.

Discussion

Jurisdictional ambiguity remains a central issue, with cybercrimes often transcending state and national boundaries, thereby complicating both territorial and subject-matter jurisdiction. This creates uncertainty over which courts or tribunals have the authority to preside over such cases. Moreover, there is a distinct lack of statutory clarity regarding the permissibility of ADR in resolving cyber-related offenses, particularly when they fall under the criminal domain. Existing Alternative Disputes Resolution laws, including the Arbitration and Conciliation Act, 1996, Mediation Act, 2023 do not clearly encompass

cyber disputes, and there is ambiguity regarding their applicability in disputes involving fraud, criminal intent, or violations under the Information Technology Act, 2000.

Institutionally, the Indian dispute resolution ecosystem lacks adequate infrastructure to support digital dispute resolution mechanisms. There are limited numbers of trained mediators, arbitrators, and conciliators who possess the technical knowledge required to handle complex cyber and technological issues. Additionally, many parts of the country especially rural, sub-urban and semi-urban regions lack the necessary digital infrastructure, such as stable internet access and secure platforms, to support ODR processes. Public awareness is also a major constraint. Despite the growing incidence of cybercrimes, many citizens remain unaware of their legal remedies, let alone the availability of ADR alternatives.

These challenges are counterbalanced by promising developments. The Indian government has shown increasing policy momentum towards digital legal transformation. NITI Aayog's Online Dispute Resolution Policy Plan and the Digital India initiative aim to foster a digital-first approach to governance and justice delivery. Simultaneously, technological innovations such as artificial intelligence, blockchain, and secure cloud-based platforms are enhancing the feasibility and reliability of ODR systems. Indian courts have also begun to recognize and encourage ADR in specific contexts, such as consumer protection, fintech disputes, and small claims, which may eventually extend to cyber law disputes.

To translate these opportunities into widespread change, a multi-pronged strategy is essential. This includes the establishment of a comprehensive legislative framework specifically addressing Alternative Online Disputes Resolution in cyber and digital disputes, creation of specialized cyber ADR cells, capacity building programs for legal professionals, awareness campaigns and integration of ADR into police and judicial protocols for handling cyber offenses. Bridging the digital divide through improved infrastructure and community-level digital literacy campaigns will further ensure broader access and trust in ADR processes.

Conclusion

Cyber disputes represent a complex and evolving frontier in legal jurisprudence. While the traditional justice system struggles with the dynamic and technical nature of such disputes, ADR mechanisms provide a flexible and efficient yet trust worthy alternative. India stands at a pivotal juncture where the convergence of digital growth and legal reform can pave the way for sustainable justice delivery.

This study finds that jurisdictional clarity, infrastructural development, and legislative recognition are key to enabling ADR's effective application in cyber law. As the digital divide narrows and technological tools mature, a hybrid model combining traditional legal systems with ADR and ODR mechanisms can significantly enhance access to justice in India, particularly in semi-urban and rural areas.

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