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CLICK, RESOLVE, REPEAT: HOW PRIVATE PLATFORMS ARE TRANSFORMING DISPUTE RESOLUTION

- Saranya Mondal

Digital solutions have made their inroads into mechanisms for dispute resolution that often lay open to digital transformations. There are seemingly chronic delays, high costs, and an ever-abundant jungle of procedures facing traditional litigation in India. Therefore, stakeholders were left to consider other remedial methods. One such evolving area is Online Dispute Resolution (ODR), which combines both technology and Alternative Dispute Resolution methods to settle disputes virtually on digital platforms where physical presence is usually not required. Private platforms have very quickly gathered pace in certain disputes. These entities profess to provide dispute resolution services that is faster, flexible, and is tuned to user needs. Nonetheless, the very emergence of these platforms brings into play deeper issues of law, ethics, and structure that merit extreme scrutiny.

Online Dispute Resolution (ODR) refers to resolving disputes through digital platforms and technologies to facilitate negotiation, mediation, arbitration and other ADR methods. It is basically the traditional ADR processes but operates virtually, with the help of technology for communication and resolution.

In the recent past, several Ministries and Departments within the Government accepted the potential of ODR and initiated programs to aid in resolving disputes arising in the sectors regulated by them.^[1] The Ministry of Micro, Small and Medium Enterprises launched the SAMADHAAN portal in October 2017. It offered facilities for e-filing and online settlement of Micro and Small Enterprises' (MSE) dues against Public Sector Enterprises, Union Ministries, Departments, and State Governments.^[2] This amounts to almost 94 percent of the dues payable to Micro and Small Enterprises (MSEs).^[3] The Nandan Nilekani-led High-Level Committee on Deepening Digital Payments, set up by RBI in 2019, recommended the setting up of a two-tiered ODR system to handle complaints arising out of digital payments.^[4]

EMERGENCE OF PRIVATE PLAYERS IN DISPUTE RESOLUTION

The emergence of private players in dispute resolution in India represents a significant shift in way disputes are resolved. Globally, ODR started in the late 1990s mainly for e-commerce disputes. ICANN, eBay, PayPal are considered as the front runners in ODR. In India, until the 2000s and early 2010s, disputes resolution was mostly traditional. The first private platform for Online Dispute Resolution (ODR) in India was **ODRways** (now known as '**sama**') in 2016. An important impetus came in 2019 when an "E-ADR Challenge" was organized by a non-profit organization Agami in collaboration with ICICI Bank.^[5] The objective of the challenge was to identify the most promising start-ups to solve millions of disputes online. In this context, ICICI Bank has committed to send an estimated 10,000 disputes below the value of INR 20 lakhs for resolution through the ODR-start-up 'SAMA', which was declared as the winner of the challenge.^[6] Currently, various start-ups are developing different models in India to innovate every day to provide accessible and cost-effective ODR services to individuals, businesses, State Governments, and the judiciary. The COVID-19 pandemic came as a changed tilt when it enforced the adaptation of digital solutions within legal frameworks. While doing so, **Presolv360, SAMA, CADRE, Jupitice, Agami** etc. positioned themselves to establish digital ecosystems that create an environment for e-filings, virtual hearings, digital awards, and case management dashboards. They are largely AI-assisted in their offerings, automated for scheduling, encrypted for communications, and online document repositories. However, almost most importantly, they provide tailored solutions to businesses and individuals who operate almost like online private courts. Further impetus to this has been provided by the NITI Aayog 2021 ODR policy paper, which also recognized the need for private players to mainstreaming online dispute resolution in India.^[7] By the year 2023, SEBI had mandated some investor disputes to be routed through its Online Dispute Resolution platform, 'SMARTODR'.^[8] Banks and NBFCs, too, now regularly refer small-ticket disputes to such services.^[9]

BENEFITS OF PRIVATE PLATFORMS

1. Speed and Efficiency: Disputes that ordinarily take months or years to resolve can be expedited within days or weeks. Through its large network of over 3,000 certified neutrals spread over more than 500 districts, **Sama** has helped resolve more than 34 lakh cases relating to banking, insurance, e-commerce, etc.^[10] The trustworthy interface of the platform and expedient processes follows making it their preferred option for quick and cost-effective dispute resolution.

2. Cost-Efficiency: Low procedural and logistical costs entice MSMEs and startups. "For every case, **Sama** charges one percent of the claim amounts in the case. If the dispute is within a lakh,

we charge the client Rs 1,000, whereas we take Rs 2,000 for clients between Rs 1-3 lakh. This is 99 percent cheaper than the courts", says Mr. Pranjal Sinha, Co-founder of Sama. ^[11]

3. Flexible and User Friendly: The parties can agree to customized procedures, often with multi-language and multi-device access. One award-winning Online Dispute Resolution (ODR) platform, **'Presolv360'**, claims that it simplifies and fast-tracks the resolution of disputes digitally.^[12] It offers customizable dispute resolution workflows designed for different sectors like banking, NBFCs, telecom, e-commerce, insurance, and real estate. ^[13]

4. Privacy and Confidentiality: And digital records can be securely stored and encrypted, making private platforms safer for commercial disputes. **'Jupitice'** claims its platform meets global privacy standards such as GDPR, is end-to-end encrypted, and allows for confidential digital hearings.^[14]

5. Scalability: The platforms can manage high-volume, low-value disputes, particularly for fintech, e-commerce, and telecom sectors, due to the use of automation.^[15]

CRITICAL ISSUES

Several issues that need serious examination are being raised by, nevertheless, the purported advantage brought by the digital platform. ^[16]

Accountability Deficit: Unlike courts or statutory tribunals, private platforms are not made accountable. They may promise neutrality, but the absence of an oversight regulatory body means that procedural unfairness or algorithmic bias could go undetected.

Lack of Awareness & Trust: Most of the people, including legal professionals and the public, are still very far from the state of awareness about what Online Dispute Resolution (ODR) is or how it works. This is followed by suspicion and distrust in its adoption as compared to going to conventional courts.

Access Divide: A fair chunk of India's populace does not seem to possess uninterrupted access to the internet, digital devices, or capabilities so that they may participate in the ODR system. This creates an inequality in access to justice.

Sporadic Adoption by Institutions: Courts, tribunals, and government departments have not uniformly adopted ODR practices. In some areas, there is enthusiasm, while in other areas there is little to no application.

Regulatory and Legal Gaps: There exists no legal or regulatory framework which is specific to Online Dispute Resolution in India at present. Such an uncertain environment cast doubt on the legitimacy of enforcement procedures or procedural fairness.

Fragmented Efforts: There exist a variety of organizations working on ODR one way or another, without direction or coordination among each other. This leads to fragmentation and non-sustainability.

Low Institutional Capacity: India presently lacks a vast pool of appropriately trained mediators, arbitrators, and technology experts within ODR specialties. Such shortages in establishments impair the growth of such a system in India.

Privacy & Data Concerns: As ODR relies heavily on communication by way of technology, the concerns regarding data security, confidentiality, and privacy with regard to sensitive information need greater and appropriate attention.

User Experience Challenges: Current interface and procedures followed by the ODR platforms may appear perplexing or difficult to navigate; this would especially be difficult for people who are not very tech-savvy or do not have any legal knowledge.

LEGAL AND REGULATORY LANDSCAPE: A GLARING GAP

The Indian legal framework remains ambiguous on the functioning and regulation of private ODR platforms. The Arbitration and Conciliation Act 1996, though progressive, was not drafted with the intent of digital dispute resolution. Online hearings and communication may be held, but no protections or norms have been put forth that are specific to private ODR providers. There is no statutory body or licensing authority that investigates or accredits private ODR platforms. Courts in India have not as yet evolved clear jurisprudence with respect to the enforceability of awards passed purely through private online platforms without any form of judicial supervision. The Digital Personal Data Protection Act, 2023 has been acting as a guide in this tech-driven society in India, but there is a need for regulatory statutes directly addressing the Online Dispute Resolution process in India. As for the rest, the UNCITRAL Technical Notes on ODR (2016) have merely set the framework suggesting the use of transparency, impartiality, and data protection in ODR processes.^[17]

THE OVERARCHING PHILOSOPHICAL ISSUE HERE IS: SHOULD JUSTICE BE PRIVATIZED?

True, the courts are overwhelmed with work, but one cannot answer this by seeking to outsource justice to persons beyond constitutional reckoning. Like private hospitals or private schools, private ODR, platforms should be permitted-but the caveat being that they should do so with regulation. They should never take the place of the public system but will always prop it up. And they already started focusing on their internal regulation, for example, **Presolv360**, an ODR

Institution working with various courts, and government and private entities has formed an advisory council comprising of Justice U U Lalit, Justice B N Srikrishna and Justice Kannan Krishnamoorthy to guide the institution on legal, ethical, procedural and policy related activities.

^[18] With the enactment of the new legislation on Mediation and the ongoing review of the Arbitration law, there is a renewed focus on institutional ADR in India. Aligning with the views of the Government, Presolv360 stated that it wants to ensure that Online Dispute Resolution, like UPI, becomes another success story from India that the world looks up to.^[19]

WAY FORWARD: REGULATION WITHOUT OVERREACH

A middle path is needed, preserving the innovation of private platforms while ensuring legal and ethical discipline. Here are some suggested reforms:

1. Recognition of an Accreditation Body: A national body to certify private ODR platforms against minimum standards with respect to data protection, process integrity, and impartiality.
2. Code of Conduct for ODR: An ethical codex should be followed for private arbitrators, mediators, conciliators and other experts for dispute resolution and platforms providing them.
4. Legislative Amendments: Specific provisions in the Arbitration and Conciliation Act recognizing online-only arbitration proceedings and their enforceability, or formulate any other specific legislations particularly for ODR proceedings conducted through these private platforms.
5. Public-Private Centers for ODR: Courts or government to partner with private platforms to hybrid models combining efficiency and accountability.
6. Empowering and Educating Users: Legal awareness campaigns to inform citizens about their rights in online dispute resolution.

THE CONCLUSION

The birth of private platforms into online dispute resolution has been a paradigm shift in the Indian legal landscape. They promise accessible, affordable, and fast justice—a dream long overdue in a country drowning in judicial backlog. Yet, this transformation ought not to exchange equity for speed, transparency for expedience, or public oversight for privacy. The law must evolve not merely to permit these innovations, but to steer them toward institutions that are ethical and legally sound. Private ODR platforms are not a replacement; rather, they are an instrument. All instruments of justice must, however, be sharpened by regulation and steered by constitutional values.

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