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ISSN No: 3049-4311
(ONLINE) _____

GEHU LAW REVIEW

A Journal of Contemporary
Legal Research

Volume & Issue:

Volume [I], Issue [II]

Publication Period:

December 2025

Institutional Affiliation:

School of Law, GEHU
Dehradun, Uttarakhand,
India



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**THE NORMATIVE FOUNDATIONS OF ONLINE DISPUTE
RESOLUTION: A JURISPRUDENTIAL ANALYSIS**

Dr. Sheema S. Dhar**Associate Professor of Law, Government Law College****Thiruvananthapuram, Kerala,****Email: sheema.s.dhar@gmail.com**

ABSTRACT

The emergence of Online Dispute Resolution (ODR) as a significant component of modern justice delivery systems necessitates a thorough examination of the theoretical underpinnings that inform its structure, function and legitimacy. ODR, defined as the application of information and communications technology to the prevention, management and resolution of disputes has evolved from its initial application in ecommerce context to a comprehensive mechanism for resolving both online and offline disputes. The article examines the various theoretical foundations of conflict resolution that form the basis for a comprehensive jurisprudential analysis of Online Dispute Resolution mechanisms. The study synthesizes classical resolution theories with contemporary digital dispute resolution frameworks, exploring how traditional jurisprudential concepts translate into technology mediated dispute settlement processes. The analysis is to establish that ODR represent not merely a technological adaptation of Alternative Dispute Resolution (ADR) but constitutes an evolving jurisprudence that prioritizes consent, accessibility and efficiency in the administration of justice.

Keywords: ODR, Theories, ADR, Jurisprudence, Technological

INTRODUCTION

Online Dispute Resolution (ODR) emerges at the intersection of alternative dispute resolution and digital technologies and its jurisprudential significance lies in how it reconfigures classic questions of justice, procedure and institutional legitimacy in a digitized environment. Instead of treating

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ODR as a mere technical add on, a jurisprudential approach views it as a distinct mode of state-market-citizen interaction that can reshape access to justice, party autonomy and the role of adjudicative authority¹. Jurisprudence of dispute resolution traditionally contrasts adjudication with consensual processes such as negotiation, mediation and arbitration asking when and why the legal system should privilege rights-based, public, court-centered determinations over private settlement and party driven outcomes. ODR extends this debate into the digital sphere by translating these same modalities—negotiation, mediation and arbitration onto online platforms, thereby raising fresh questions about how consent, neutrality, due process and enforceability operate when the forum is a technological system rather than a physical institution. International instruments and policy texts conceptualize ODR through a cluster of principles like fairness, transparency, efficiency, effectiveness, accountability, independence and impartiality as benchmarks against which digital procedures must be evaluated. Jurisprudential analysis thus focuses on whether ODR can simultaneously enhance access to justice for low-value², cross border disputes and preserve core guarantees of procedural justice, equality of arms and public oversight that underpin the legitimacy of dispute resolution in constitutional democracies. Because ODR is built around platforms, algorithms and synchronous communication, it redistributes power among courts, private platforms, neutrals and users, prompting inquiry into the privatization and platformisation of justice. At the same time by reducing cost, distance and formality ODR offers new possibilities for inclusive and user centered dispute resolution, especially in e-commerce and consumer contexts inviting a reassessment of how legal systems conceptualize access to justice and the appropriate mix of online and offline remedies³. Placed at this intersection a jurisprudential study of ODR is concerned less with its technical design and more with how digitally mediated processes embody, transform or threaten foundational commitments to rule of law, party autonomy and substantive fairness.

¹ Dhatri Singh, Dr Kalpana Devi, “Online Dispute Resolution (ODR): A Paradigm Shift in Access to Justice” 7 *IJFMR* 1, 8 (2025)

² AT&T Mobility LLC v. Concepcion 563 U.S. 333 (2011)

³ See generally Richard Susskind, *Online Courts and the Future of Justice* (Oxford University Press, 2019)

VOLUME I | ISSUE II | DECEMBER 2025**RESEARCH QUESTIONS**

1. How do classical theories of dispute resolution translate into the design and operation of Online Dispute Resolution mechanisms as technologically mediated processes?
2. In what ways does ODR constitute an evolving jurisprudence distinct from traditional ADR particularly with respect to consent, accessibility, efficiency and the preservation of core guarantees of procedural justice and institutional legitimacy in constitutional democracies?
3. How do existing Indian legal and policy frameworks provide the normative and institutional bases for ODR? What convergences, divergences and normative gaps do these reveal in comparison with the UNCITRAL Technical Notes on ODR for the development of a strong ODR regime in India?

RESEARCH OBJECTIVES

1. To develop a jurisprudential account of how negotiation, mediation and arbitration are reconfigured when conducted through ODR platforms.
2. To evaluate whether and how ODR mechanisms move beyond being a mere technological extension of ADR to form a distinct body of jurisprudence.
3. To delineate the scope, limits and appropriate use of ODR mechanisms in the Indian Justice system.
4. To systematically compare the principles, process architecture and stakeholder roles envisage in the UNCITRAL Technical notes on ODR with the design of India's emerging ODR framework.

THEORIES OF CONFLICT RESOLUTION

The jurisprudential analysis of ODR requires an understanding of foundational conflict resolution theories that have shaped dispute resolution mechanisms throughout legal history. These theories provide the conceptual framework for evaluating ODR's effectiveness, legitimacy and alignment with fundamental principles of justice. A fundamental theoretical distinction in conflict resolution jurisprudence differentiates between disputes and conflicts. Disputes are typically justiciable

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disagreements amenable to legal adjudication based on established rights and obligations whereas conflicts represent deeper disagreements rooted in interests, values or fundamental human needs⁴.

The distinction carries significant implications for ODR mechanisms. While traditional litigation addresses disputes through rights-based adjudication, ODR platforms can be designed to address both disputes and underlying conflicts through interests-based and needs-based approaches. The flexibility of ODR technology permits the integration of multiple resolution modalities from automated negotiation for simple disputes to facilitated dialogue for complex conflicts involving relational or value dimensions.

Further in Indian context ODR implementation through initiatives like the e-Courts project integrating technology into judicial processes, e-Lok Adalats providing online settlement forums and the NITI Aayog ODR policy framework proposing comprehensive ODR integration across consumer disputes, commercial matters and government litigation⁵. These initiatives reflect a systematic dispute resolution infrastructure rather than isolated technological interventions popularizing the mechanism as an effective tool of dispute resolution.

Judicial Conflict Resolution Theory

The Judicial Conflict Resolution Theory (JCR) perspective represents a significant theoretical development that reconceptualizes judicial activity through the lens of conflict resolution methodologies⁶. The theory challenges the traditional dichotomy between adjudication and alternative dispute resolution by recognizing that judges frequently engage in conflict resolution activities promoting settlements, facilitation plea bargaining and encouraging consensual resolutions. The theory's emphasis on consent over coercion as a leading value for justice administration provides strong theoretical support for ODR mechanisms⁷. ODR platforms embody this consent based approach by empowering parties to choose their dispute resolution process,

⁴ Burton, J., "Conflict resolution as a political philosophy" in D. J. D. Sandole & H. van der Merwe (eds.), *Conflict Resolution Theory and Practice: Integration and Application* 55 (Manchester University Press, 1991)

⁵ NITI Aayog.. Designing the Future of Dispute Resolution: The ODR Policy Plan for India (Government of India, 2023) available at <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> (last visited on 31/12/2025)

⁶ Alberstein, M., "Judicial conflict resolution (JCR): A new jurisprudence for an emerging judicial practice" 16 *Cardozo J. Conflict Resol.* 879 (2015) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2629814 (last visited on 30/12/2025)

⁷ *Ibid*

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control procedural aspects and determine outcomes through agreement rather than imposed adjudication. ODR codify JCR method through several key features:

- Automated and assisted negotiation platforms that facilitate party to party resolution
- Online mediation with neutral third parties facilitating communication through digital platforms.
- Online arbitration with binding decisions rendered through digital submission and deliberation
- Synchronous and asynchronous communication tools enabling structured dialogue
- AI assisted analysis identifying interests and generating creative solutions
- Algorithmic design of dispute resolution processes tailored to case characteristics

Consent Based Jurisprudence

The theoretical shift toward consent based jurisprudence represents a fundamental reformulation of justice delivery. Traditional adjudicative models prioritize coercive state power to impose authoritative determinations of rights. In contrast, consent based theories emphasize party autonomy, procedural flexibility and consensual resolution as core values⁸. The key features of the consent based jurisprudence in ODR is parties control regarding:

- Participation in the resolution process
- Determining procedural parameters including selection of neutrals, timelines and communication modalities
- Over resolution content except in binding arbitration contexts
- Securing confidential resolution processes respecting party preferences

This justifies ODR's integration within formal justice systems not as a dilution of state authority but as an evolution towards more legitimate, participatory models of justice administration.

Needs Based Conflict Resolution Theory

⁸ Alberstein, M., "Judicial conflict resolution: A new Jurisprudence" 22 *Ohio St. J. on Disp. Resol.* 389 (2007) available at [http://jcrlab.com/upload/publications/Alberstein-Judicial Conflict Resolution-A-New Jurisprudence.pdf](http://jcrlab.com/upload/publications/Alberstein-Judicial%20Conflict%20Resolution-A-New%20Jurisprudence.pdf) last visited on 29/12/2025

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Need based conflict resolution theory posit that conflicts fundamentally arise from unmet basic human needs rather than incompatible positions or competing interests?⁹ Basic human needs including security, recognition, identity, participation and autonomy are universal, non negotiable and generate intractable conflict when systematically denied. This theory has significant implications for ODR design. Online disputes often involve needs for digital security, privacy protection, reputational preservation and access to digital resources¹⁰. Resolution process can do more than allocate rights or split differences they must address underlying needs that drive conflict. ODR platforms can be designed to identify needs through structured questionnaires and AI assisted analysis, facilitate dialogue, generate creative solutions addressing multiple parties and track whether proposed resolutions satisfy fundamental needs¹¹.

Restorative Justice Principles

The theory reconceptualizes dispute resolution from retributive punishment towards restoration of relationships, reparation of harm and reintegration of offenders into community¹². The principal approach of the theory in aspects like who was harmed, what are their needs and whose obligation is to meet those needs are relevant to ODR mechanisms¹³. Prioritizing victim's needs and voices in resolution process; encouraging responsible parties to acknowledge harm and commit to repair; recognizing stakeholder communities affected by disputes; engaging all stake holders in crafting resolution thereby seeking repair and maintain ongoing relationships wherever possible all are facets of restorative justice in ODR through technological features¹⁴. These technological

⁹ Walsh, Dawn, "How a Human Needs Theory Understanding of Conflict Enhances the Use of Consociationalism as a Conflict Resolution Mechanism" available at https://pure-oai.bham.ac.uk/ws/files/22311006/Walsh_Consociationalism_and_HNT_Ethnopolitics_2015_Pre_Print.pdf (last visited on 01/01/2026)

¹⁰ F.Abedi J. Zelesnikow, C Brien, "Developing Regulatory Standards for the concept of Security in Online Dispute Resolution Systems" 35 *Comput. Law & Secur. Rev.* (2019) available at <https://www.scopus.com/pages/publications/85067998288?inward=> (last visited on 01/01/2026)

¹¹ Fahimeh Abedi, Abbas Rajabifard, Davood Shojaei, "Enhancing access to justice for land and property disputes through online dispute resolution and artificial intelligence" 59 *Comput. Law & Secur. Rev.* (2025) available at <https://www.sciencedirect.com/science/article/pii/S2212473X25000665> (last visited on 01/01/2026)

¹² Zehr, H., *The Little Book of Restorative Justice: Revised and Updated* (Good Books, 2015) available at https://www.nawj.org/uploads/files/events/webinars/overview_of_restorative_justice_-_basic_principles.pdf (last visited on 01/01/2026)

¹³ Oscar Daniel Franco Conforti, "ODR and Restorative Justice Online: Clarifying Concepts due to its Legal Implications" 6 *IJAR* (2018) available at <https://www.journalijar.com/article/21891/odr-and-restorative-justice-online-clarifying-concepts-due-to-its-legal-implications/> (last visited on 31/12/2025)

¹⁴ *Ibid*

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capabilities extend restorative justice beyond small scale, face to face applications to large scale digital implementation.

Interest Based Theory

ODR systems can integrate interest based problem solving through several mechanism. This theory distinguished parties underlying interests from their stated positions. While positions represent concrete demands or stances, interests reflect the fundamental concerns, needs and desires motivating those positions¹⁵. Effective dispute resolution requires uncovering and addressing interests rather than merely compromising between positions. In ODR structured in take processes can use questionnaires that prompt parties to articulate interests beyond positions. AI assisted analysis can identify common interests and potential areas of mutual gain from party submissions¹⁶.

Therapeutic Jurisprudence Concept

This concept examines law's therapeutic and anti-therapeutic consequences proposing that legal rules and procedures should be designed to enhance psychological wellbeing and minimize harm where possible without subordinating other justice values¹⁷. It analyses how legal processes affect parties' dignity, psychological health and social functioning. In dispute resolution this jurisprudence emphasizes psychological impact of procedural justice perceptions; meaningful participation; transparency; effectiveness and predictability. ODR presents both opportunities and challenges from therapeutic approach. Technology can enable parties to participate from comfortable environments reducing intimidation factors in formal court settings on the one side but on the other it creates anxiety, reduced interpersonal connection diminishing empathy and digital divide creates exclusion¹⁸.

¹⁵ Tony Lawson, "Social Positioning Theory" 46 *Camb. J. Econ.* (2022) available at <https://academic.oup.com/cje/article/46/1/1/6426114> (last visited on 01/01/2026)

¹⁶ Julia, "Artificial Intelligence, Judicial Decision-Making And Fundamental Rights" 74 available at https://ssm-italia.eu/wp-content/uploads/2025/02/JuLIA_handbook-Justice_final.pdf (last visited on 31/12/2025)

¹⁷ Wexler, D. B., & Winick, B. J., "Therapeutic jurisprudence and the resolution of value conflicts" 9 *J. Clin. Ethics*, 398 (1998) available at <https://pubmed.ncbi.nlm.nih.gov/10723100/> (last visited on 28/12/2025)

¹⁸ K.Kress, "Therapeutic Jurisprudence and the Resolution of Value Conflicts: What We can Realistically expect in Practice from Theory" 17 *Behav Sci Law.* (1999) available at <https://pubmed.ncbi.nlm.nih.gov/10723100/> (last visited on 01/12/2025)

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Systems Level Theory

This approach conceptualizes dispute resolution not as isolated interventions but as systematic organizational capabilities¹⁹. It analyses how institutions can design integrated dispute resolution systems that prevent conflicts, resolve disputes efficiently at appropriate levels and generate organizational learning from conflict patterns. ODR platforms operationalize dispute systems design by providing technological infrastructure for integrated, multi-tier resolution systems²⁰. Organizations can implement ODR that automatically routes disputes to appropriate process based on case characteristics, enables sequential escalation from automated negotiation through mediation to arbitration and generates data analytics revealing systemic dispute patterns requiring organizational response²¹. The decision in *Jones v. Starz Entertainment, LLC*²² confirms that in mass, digitally filed consumer arbitrations, courts will generally defer to the arbitral institutions procedural tools like consolidation and will not lightly treat such case management decisions as a refusal to arbitrate thereby legitimizing institutional and platform based techniques to manage large scale ODR caseloads and control costs.

ODR: CONCEPT AND MECHANISMS

ODR is fundamentally defined as a branch of Alternative Dispute Resolution that utilizes information and communication technology (ICT) to facilitate dispute resolution processes through electronic communications and digital platforms²³. Contemporary jurisprudence recognizes ODR as a distinct category of dispute resolution mechanism that encompasses artificial

¹⁹ Ury, W. L., Brett, J. M., & Goldberg, S. B., *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict* (Jossey-Bass Social & Behavioral Science Series, 1st Edition, 1988) available at <https://psycnet.apa.org/record/1988-98677-000> (last visited on 01/12/2025)

²⁰ William L. Ury, Jeanne M. Brett & Stephen B. Goldberg, "Designing an Effective Dispute Resolution System" 4 *Negotiation J.* 413, 415 (1988)

²¹ NITI Aayog, "Designing the Future of Dispute Resolution: The ODR Policy Plan for India" (Government of India, 2023) available at <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> (last visited on 01/01/2026)

²² *Kiana Jones v. Starz Entertainment, LLC*, 5:24-cv-00206, (C.D. Cal.)

²³ Faya Fangfei Wang, "Online Dispute Resolution (ODR)" available at <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e3028.013.3028/law-mpeipro-e3028> (last visited on 31/12/2025)

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intelligence capabilities, automated processes and human centric intermediation in novel configurations²⁴. The core distinguishing features of ODR are²⁵:

- The process occurs through digital platforms with inherent capacity for asynchronous communication, data management and evidence preservation.
- Geographical distance between parties become immaterial and participants need not occupy the same physical space to engage in dispute resolution.
- Automation capabilities reduce administrative overhead and expedite procedural stages.
- Elimination of travel costs, venue rental and administrative burdens makes resolution of dispute economically viable for low value and cross border disputes.
- Parties are given granular control over procedural choices, neutral selection, timing of participation and substantive outcomes.

While ODR emerged from ADR frameworks the relationship between them requires careful legal analysis²⁶. Traditional ADR connotes mechanisms arbitration, mediation, conciliation wherein parties agree to resolve disputes outside the formal court system using neutral intermediaries. ODR is not merely ADR “conducted online” rather it represents a distinct categorization characterized by features like process control, scalability and hybrid functionality. Technology governs procedural stages, with human intermediaries intervening at specified decision points rather than directing the entire process. Automated systems enable ODR platforms to process millions of disputes annually, a scale impossible for traditional mediation or arbitration. ODR platforms frequently integrate negotiation, mediation and arbitration sequentially with advancement to subsequent stages contingent upon settlement failure at prior stages. The jurisprudential significance of this distinction lies in the question of whether existing ADR legislation sufficiently captures ODR process or whether ODR requires specialized legal recognition and regulation.

ODR: INDIAN LEGAL FRAMEWORK

²⁴ O Rabinovich Einy, “Technology’s Impact: The Quest for a New Paradigm for Accountability in Mediation” 11 *Harv. Negot. L. Rev.* 253 (2006)

²⁵ E M Katsh & J Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (Jossey-Bass San Francisco, 2001)

²⁶ Nachiketh R.Reddy, “ADR Vs. ODR In Modern Dispute Resolution” 7 *IJLLR* 4237 (2025)

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ODR practice in India operates within a constitutional and statutory framework comprising multiple legislative instruments each addressing distinct dimensions of digital resolution. In *State of Maharashtra v. Dr Praful B. Desai*²⁷ the court rejecting the argument of not subjecting the rights of an accused under Article 21 to a procedure involving virtual reality detailed the scope of “Virtual Reality” in the context of video conferencing as:

“Virtual reality is a state where one is made to feel, hear or imagine what does not really exists.....Advances in science and technology have now, so to say, shrunk the world. They now enable one to see and hear events, taking place far away, as they are actually taking place..... Video conferencing is an advancement in science and technology which permits one to see, hear and talk with someone far away, with the same facility and ease as if he is present before you i.e. in your presence..... Thus it is clear that so long as the Accused and/or his pleader are present when evidence is recorded by video conferencing that evidence is being recorded in the "presence" of the accused and would thus fully meet the requirements of Criminal Procedure Code. Recording of such evidence would be as per "procedure established by law"”.

Code of Civil Procedure 1908

Section 89 of the CPC 1908 provides the foundational authorization for ADR mechanisms and represents the primary statutory basis for court annexed and court approved dispute resolution outside the traditional adversarial court system²⁸. The statutory language does not explicitly restrict ADR to physical or in person proceedings thus ODR mechanisms satisfy the statutory criteria. The courts possess discretionary authority to recommend or mandate ODR at any stage of litigation. Section 89 does not independently govern evidentiary treatment of ODR proceeding. However when an agreement is reached through ODR and formalized through written settlement agreement such settlement becomes enforceable as a court decree under section 89(2)²⁹ acquiring statutory enforceability equivalent to adjudicated judgments.

²⁷ (2003) 4 SCC 601

²⁸ The Code of Civil Procedure, 1908 (ACT NO. 5 OF 1908), s. 89(1)

See also The Code of Civil Procedure (ACT NO. 5 OF 1908), Order X Rules 1A and 1B

²⁹ Code of Civil Procedure, 1908 (ACT NO. 5 OF 1908), s. 89(2)

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Arbitration and Conciliation Act 1996

The Arbitration and Conciliation Act 1996 (Arbitration Act) comprises the primary legislation governing arbitration and conciliation in India. It addresses substantive arbitral rights, procedural requirements and enforcement mechanisms applicable to both domestic and international arbitration. In the definition of arbitration agreement under section 2(b) read with section 7³⁰ the statute does not prescribe the medium through which the arbitration agreement is documented though written form is mandatory which digital documents satisfying section 5 of the Information Technology Act 2000 (IT Act) qualifies. In *Shakti Bhog Foods Ltd v. Kola Shipping Ltd.*³¹ the Supreme Court by upholding the validity of an arbitration agreement through electronic communication set the ground for treating that online arbitration clauses and electronic records can constitute arbitration agreement laying doctrinal ground for ODR style clauses. Section 5³² contains no restrictions on technological modalities, the statute addresses manner of proceedings without mandating physical co-location. Thus parties agreement to conduct arbitration online satisfies section 5 requirements provided mandatory procedural protections namely notice, opportunity to be heard, impartiality of arbitrator are preserved. The procedural requirements under section 19 to 25³³ of the Arbitration Act never mandate in person proceedings and all procedural requirements can therefore achieve through digital platforms also. Irrespective of the medium arbitrator appointment occurs through agreement or judicial intervention. With the enactment of Bharatiya Sakshya Adhiniyam 2023 (BSA) and IT Act notice via email and electronic communications³⁴; hearing testimony via video conferencing and digital evidence management become materialized³⁵. Digital transmission of arbitral awards constitutes a valid award delivery. In *Trimex International FZE Ltd v. Vedanta Aluminium Ltd.*³⁶ the court recognized that a concluded contract can emerge from exchanges of emails and other electronic communications even in the absence of a formally signed document. This is central to ODR

³⁰ The Arbitration and Conciliation Act, 1996 (ACT No. 26 OF 1996), s. 7.

³¹ (2021) 12 SCC 600

³² Information Technology Act, 2000 (Act 21 of 2000), s. 5.

³³ The Arbitration and Conciliation Act, 1996, (ACT No. 26 OF 1996), ss. 19, 20, 21, 22, 23, 24, 25.

³⁴ The Bharatiya Sakshya Adhiniyam, 2023 (Act NO. 47 OF 2023), s. 2(d)

³⁵ The Bharatiya Sakshya Adhiniyam, 2023 (Act NO. 47 OF 2023), s. 2(e), 147, 148

³⁶ (2010) 3 SCC 1

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because many ODR agreements are formed via email chains or click wrap agreements rather than traditional signed contracts.

The substantive grounds for modification namely jurisdiction, procedural irregularity, enforcement of mandatory procedures applies irrespective of whether arbitration was conducted in person through ODR platforms. When courts refer disputes to ODR under section 89 of the CPC the referred dispute is governed by the Arbitration Act when arbitration is selected.

The Mediation Act 2023

The Mediation Act 2023 gives ODR a clear statutory foothold by recognizing online mediation as part of the core mediation framework, prescribing how it is to be conducted and equating the legal force of outcomes of online and in person mediation. The long title and statement of objects make online mediation an express objective describing the Act as one meant to promote and facilitate mediation, especially institutional mediation and to make online mediation an acceptable and cost effective process. Section 3 defines ‘mediation’ in an inclusive way that covers pre-litigation mediation, conciliation and read with Chapter VII, online mediation ensuring that general provisions on procedure, settlement agreements, confidentiality and challenge apply equally to ODR processes. Academic and practice commentaries³⁷ emphasize that this drafting choice is deliberate: it avoids treating online meditation as a marginal add-on and instead embeds it within the mainstream definition of mediation for both domestic and international mediations governed by the Act. Section 30 is the provision that expressly permits online mediation including pre-litigation mediation to be conducted at any stage subject to the written consent of the parties. The Act authorizes the use of electronic form or computer networks illustratively listing encrypted email, secure chat rooms and video or audio conferencing which maps directly onto typical ODR infrastructures such as platform dashboards, asynchronous test modules and live video rooms³⁸. Online mediation is mandated to conduct in circumstances that preserve integrity of proceedings and confidentiality empowering the mediator to take appropriate steps³⁹. This functions as a

³⁷ Government of India, “Handbook A Guide To Alternative Dispute Resolution Released On Constitution Day” (Ministry of Law and Justice Year End Report, 2023) available at <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=1986723®=3&lang=2> (last visited on 01/01/2026)

³⁸ The Mediation Act, 2023(Act NO. 32 OF 2023), s. 30(1)

³⁹ The Mediation Act, 2023(Act NO. 32 OF 2023), s. 30(3)

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statutory anchor for requirements around secure platforms, access control, data protection and recording policies in ODR. There is no distinction in enforceability between agreements reached through physical room mediation and those concluded via section 30 online mediation. An ODR based settlement that satisfies the Act's formal and substantive requirements enjoys the same status as any other mediated settlement agreement. In *Grid Corporation of Orissa Ltd v. AES Corporation*⁴⁰ Justice R. C. Lahoti observed:

“When an effective consultation can be achieved by resort to electronic media and remote conferencing it is not necessary that the two persons required to act in consultation with each other must necessarily sit together at one place unless it is the requirement of law or of the ruling contract between the parties.”

The Act establishes the Mediation Council of India⁴¹ (MCI) to register mediators, mediation service providers and mediation institutes and to frame standards for training ethical conduct and process design; this institutional architecture is also expected to shape norms for online and hybrid processes. Policy and doctrinal analyses anticipate that in implementing its functions MCI will have to develop guidelines for online platforms including minimum technical standards, data security and accessibility requirements thereby converting the broad principles in section 30 into detailed ODR specific practice norms.

By allowing online mediation at any stage and explicitly covering pre-litigation mediation the section opens the door for court annexed ODR, contractual ODR clauses and platform based consumer and MSME schemes to operate squarely within the statutory framework. This design supports use of ODR for cross border and geographically dispersed parties, improves accessibility for persons who cannot easily appear physically and aligns with broader government initiatives on digital justice and ease of doing business.

Information Technology Act 2000

⁴⁰ (2002) 7 SCC 736

⁴¹ The Mediation Act, 2023(Act NO. 32 OF 2023), s. 31

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The Information Technology Act 2000 was enacted to give legal recognition to electronic records⁴² and digital/electronic signatures⁴³ thereby enabling e-commerce and providing the foundational statutory framework for treating ODR proceedings conducted through electronic means as legally equivalent to paper based or in person processes. Section 4 grants legal recognition to electronic records by providing that where any law requires information to be in writing or in its original form that requirement is satisfied if the information is rendered and accessible in electronic form which allows all documents filed in ODR namely claims, replies, evidences and orders to function as fully valid legal records without needing physical originals. Section 5 gives legal recognition to digital/electronic signatures deeming statutory signature requirements to be satisfied when information is authenticated by means of a prescribed digital signature so that e-signed settlement agreements, awards and procedural directions in ODR have the same legal effect as handwritten signatures for enforcement and evidentiary purposes. Jurisdictional issues arising from online communications are addressed in the IT Act's rules on attribution⁴⁴, dispatch and receipt of electronic records⁴⁵ which deem the place of dispatch and receipt in ways that help determine territorial jurisdiction and cause of action questions in ODR related disputes. The Supreme Court in *State of Maharashtra v. Dr. Praful B. Desai*⁴⁶ although not an IT Act related case reinforces this framework by holding that recording evidence and conducting proceedings by video conferencing satisfies legal requirements of "presence" and "examination" thereby validating technology mediated hearings that ODR routinely relies on.

Under the earlier regime Sections 65A-65B of the Indian Evidence Act governed admissibility of electronic records and required a Section 65B certificate detailing the manner of production, device use and authenticity, this applied directly when ODR generated records were produced in court. With the Bharatiya Sakshya Adhiniyam 2023 (BSA) replacing the Indian Evidence Act the functional role of Section 65B is now largely carried forward by Sections 62-63 BSA. Section 62 provides that contents of electronic records shall be proved in accordance with section 63, and section 63(1) to (4) lay down detailed rules for admissibility including a mandatory certificate in

⁴² The Information Technology Act, 2000(Act 21 of 2000), s. 4

⁴³ The Information Technology Act, 2000(Act 21 of 2000), s. 5

⁴⁴ The Information Technology Act, 2000(Act 21 of 2000), s. 11

⁴⁵ The Information Technology Act, 2000(Act 21 of 2000), s. 13

⁴⁶ 2003 4 SCC 601

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the form specified in the Schedule often with hash value information and signatures of the person in charge and an expert. Consequently for ODR electronic evidence such as platform logs, chat transcripts, uploaded documents, screen recordings and digitally signed awards must now comply with the BSA certificate regime under section 63 when produced in court, but the basic principle remains unchanged: properly certified electronic records are admissible and capable of proving ODR proceedings and outcomes just as physical records would.

Consumer Protection Act 2019

Under Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020, consumer dispute resolution is structurally capable of operating as an ODR system even though the legislation does not use the term “ODR” expressly. The ODR relevant features cluster around three elements namely fully digital intake and case management, technology enabled adjudication and mediation and platform based grievance redress duties for ecommerce entities. Section 35 of the Act read with rules allows filing of complaints electronically which is operationalised through the E-Daakhil portal⁴⁷ that enables online filing, payment of fees and uploading of pleadings and documents from any location. The E-Daakhil system supports ODR style workflows in the form of e-notice generation, online service of process, electronic filing of written versions and rejoinders, case document download links and integration with video conferencing links for virtual hearings so that an entire consumer case can proceed without physical presence. Practice under the Act expressly contemplates hearings via video conferencing, guidance on the 2019 Act highlights that both filing and hearing can be conducted through online interfaces, reflecting a shift from court-plus-technology to technology-centered adjudication in appropriate cases. In doctrinal ODR terms the consumer framework enables platform based intake and triage through E-Daakhil and platform grievance dashboards, technology supported consensual processes vial online mediation through Consumer Mediation Cells or platform settlement tools and remote adjudication with enforceable outcomes by statutory Commissions making consumer law one of the clearest Indian fields where ODR is implicitly but substantively embedded in the legal architecture.

National Internet Exchange of India (NIXI)

⁴⁷ <https://www.india.gov.in/e-daakhil-portal>

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Within the ODR landscape NIXI⁴⁸ functions as a concrete, sector-specific implementation of technology enabled dispute resolution through its .IN Domain Name Resolution Policy (INDRP) administered by .IN Registry. NIXI's mechanism addresses disputes arising from abusive ".in" domain registration namely cybersquatting, bad-faith registration and trademark-infringing domain names by contractually binding registrants to resolve such disputes through online arbitration under INDRP rather than traditional court litigation⁴⁹. The process is natively digital where complaints are filed electronically, the .IN Registry screens them and appoints an arbitrator from a published online panel and all communications like pleadings, notices, procedural orders and often hearing are conducted via email and where needed video conferencing with the arbitrator empowered under the Arbitration and Conciliation Act 1996 to decide on the basis of written submissions without in-person hearings. This architecture mirrors core ODR design features like asynchronous text based exchanges, online notification flows, digital submission of evidence and remote decision making all anchored in a specialized institutional framework.

NIXI system demonstrates how ODR can be embedded through a combination of contract and arbitration law--- by registering a ".in" domain the registrant accepts a mandatory arbitration clause in favour of INDRP so that any qualifying dispute is resolved by an online arbitral process whose award is binding between the parties and implemented directly through registry actions such as transfer, cancellation or retention of the domain name. Enforcement in practice does not usually require separate court proceedings because the .IN Registry executes the arbitral decision at the level of the domain name database reflecting a distinctive ODR feature where the remedy is implemented within the technical architecture rather than through conventional state coercion. The process thus demonstrates how online arbitration and quasi administrative enforcement can deliver specialized high volume dispute resolution.

UNCITRAL TECHNICAL NOTES ON ODR

⁴⁸ <https://www.registry.in/dispute-resolution>

⁴⁹ INDRP (.IN Domain Name Dispute Resolution Policy) in India <https://ssrana.in/ip-laws/domain-names-india/indrp-domain-name-dispute-india/>

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The Technical notes⁵⁰ represent a comprehensive framework designed to address the exponential growth in cross border e commerce transactions and the corresponding need for efficient, accessible dispute resolution mechanisms⁵¹. It serves multiple purposes:

- Foster the development and standardization of ODR systems globally.
- Provide practical guidance to ODR administrators, platform developers, neutral and parties engaging in ODR proceedings.
- Establish a common vocabulary and conceptual framework for discussing and implementing ODR mechanisms.

The Notes articulate a set of core principles that any legitimate ODR systems should satisfy fairness, transparency, due process, accountability, impartiality, independence, efficiency and effectiveness⁵². These values are operationalised through practical requirements: process must be simple and rapid, costs and burden must be proportionate to the value in dispute, key information about the system, its relationships, fees and procedures must be publicly available and outcome must be practically usable and where appropriate enforceable. Administrators are expected to disclose relevant relationships, adopt codes of ethics for neutrals, implement conflict of interest and quality assurance policies and ensure that all participation is grounded in informed consent.

ODR is defined as dispute resolution conducted through electronic communications and other ICT with a distinctive reliance on a technological intermediary the ODR platform. The platform is conceived as the secure system that generates, sends, receives, stores and processes all case related communications ensuring data integrity and confidentiality. Each ODR system must have an ODR administrator⁵³ which may be institutionally separated or integrated with the platform. The Notes describe a graduated three stage process⁵⁴ that can operate entirely online.

Stage 1- Technology enabled negotiation A/71/507

⁵⁰UNCITRAL 71/138. *Technical notes on Online Dispute Resolution of the United Nations Commissions on International Trade Law* Resolution adopted by the General Assembly on 13 December 2016 on the report of the Sixth Committee A/71/507

⁵¹*Ibid* Section I (1)

⁵² *Ibid* Section II

⁵³ *Ibid* Section V (27)

⁵⁴ *Ibid* Section III

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After a structured online notice and response parties first attempt direct negotiation via the platform messaging or similar tools without a neutral's intervention. This stage is designed to be quick and low cost enabling many disputes to settle through structured dialogue alone.

Stage 2- Facilitated settlement with a neutral

If negotiation fails, stalls or one party does not participate the administrator appoints a neutral to assist the parties in reaching a settlement. The neutral communicates online helps clarify issues, explores options and encourages agreement but does not impose a solution, the focus remains consensual resolutions.

Stage 3- Final stage

Where facilitated settlement does not succeed the process may move to a final stage whose exact nature of binding arbitration, non binding recommendation or other mechanism is left to applicable rules and party agreement. The Technical Notes deliberately avoid prescribing the form of this final stage to allow compatibility with different national systems and institutional models.

Neutrals are defined broadly as individuals who assist in settling or resolving the dispute they need not always be lawyers but must have appropriate professional and dispute resolution skills. The administrator appoints a neutral when the rules call for it and the neutral must declare independence and impartiality⁵⁵. Parties must have a mechanism to challenge the appointments with the administrator deciding whether replacement is warranted. The neutrals are empowered to conduct proceedings in a manner they consider appropriate avoid unnecessary delay or expense allow additional information extend time limits where justified and ensure equal treatment of parties and overall fairness. The Notes encourage streamlined appointment and challenge procedures recognizing that complex, court like mechanisms would undermine the speed and cost efficiency central to ODR.

CONVERGENCES: INDIA'S ODR FRAMEWORK AND UNCITRAL NOTES

Both India's emerging framework and the UNCITRAL Notes emphasize ODR as particularly suitable for high volume, relatively lower value disputes arising from digital transactions and aim

⁵⁵ *Ibid* Section X

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at speed cost efficiency and accessibility. Indian initiatives like the NIXI's domain name ODR, consumer mediation cells reflect the Notes model of platform based proceedings involving online negotiation assisted settlement and a binding neutral decision usually completed in defined timelines. Statutes such as the IT Act and Mediation Act provide foundational legal recognition for electronic records, online mediation and e-signatures which aligns with the UNCITRAL Notes assumption that ODR processes and outcomes must be functionally equivalent to conventional dispute resolution.

Table: 1 India's ODR framework vs. UNCITRAL Technical Notes

Dimension	India – laws and initiatives	UNCITRAL Technical Notes
Legal Nature	Binding statutes and regulatory mandates	Non-binding, descriptive guidance for ODR system design
Primary focus	Domestic disputes	Cross border B2C and small value disputes especially e-commerce
Process model	Mix of hybrid and online, e-filing, email, video hearings, platforms tools, strong reliance on existing ADR law	Fully online platform-centered three stage process—negotiation, facilitated settlement, decision
Principles	Due process, fairness, efficiency largely derived from general ADR, IT and evidence law, platform specific codes emerging via policy	Explicit articulation of independence, impartiality, fairness, transparency, accountability, security for ODR systems and neutrals
Institutionalization	Multiple sectoral actors	Generic ODR administrator and platform model not tied to a particular national structure.

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STANDARD MODELS

The European Union's former consumer ODR platform and Brazil's consumidor.gov.br are widely treated in practice and policy literature as reference models for public, at-scale ODR. India is closer to Brazil than to the EU's now discontinued single central portal.

The European Union model of ODR⁵⁶ represented a highly centralized and regulation driven approach, establishing a single, Union wide online platform as the entry point for consumer disputes arising from e commerce transactions⁵⁷. This system required traders to provide visibility to the platform and enabled disputes to be filed electronically and then routed to accredited ADR entities across Member states supported by multilingual tools and standardized procedures⁵⁸. As reflected in the comparative framework below the EU model's strength lay in its uniform legal bases, high degree of institutional centralization and clearly articulated standards for transparency and accessibility⁵⁹. However its reliance on trader participation⁶⁰ and indirect adjudication through ADR bodies limited its practical uptake, ultimately leading to its discontinuation even though it remains a normative benchmark for designing integrated, cross border ODR systems⁶¹.

Brazil's consumidor.gov.br⁶² by contrast exemplifies a pragmatic, service oriented and state anchored ODR model focused on direct, platform based dispute resolution between consumers and businesses⁶³. Operating as a single national portal it enables consumers to file complaints online,

⁵⁶ Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes

⁵⁷ Ibid recital 18, art 1

⁵⁸ Ibid arts 5-10

⁵⁹ Emma Van Gelder, "The EU Approach to Consumer ODR" 6 IJODR 219 (2019)

⁶⁰ Lisette Den Butter & Celia Bouzas, "The End of the European Online Dispute Resolution Platform" available at <https://www.twobirds.com/en/insights/2025/global/the-end-of-the-european-online-dispute-resolution-platform> (last visited on 03/05/2026)

⁶¹ Regulation (EU) 2024/3228 of the European Parliament and of the Council of 19 December 2024 repealing Regulation (EU) No 524/2013, and amending Regulations (EU) 2017/2394 and (EU) 2018/1724 with regard to the discontinuation of the European Online Dispute Resolution Platform. OJ L, 2024/3228, 30.12.2024. Available at: <https://eur-lex.europa.eu/eli/reg/2024/3228/oj> (last visited on 03/05/2026)

⁶² Luciana Oliveria, Paulo Burnier, Andrea Juliet & Liziane Paixao, "Consumer Claims, Online Dispute Resolution and Innovation in the Public Administration: A Case Study of the Consumidor.gov Platform in Brazil During 2014-2019" 10 TPA 81 (2020)

⁶³ Decree No. 8.573, signed on November 19, 2015, by President Dilma Rousseff, officially established Consumidor.gov.br See also Andrea Marighetto & Luca Dal Pubel, Consumer Protection and Online Dispute Resolution in Brazil available at

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requires participating companies to respond within prescribed timelines and facilitates structured negotiation without necessarily involving third party neutrals at the initial stage⁶⁴. In comparative terms Brazil's model stands out for its simplicity, high user engagement and effective integration into public consumer protection policy with measurable outcomes such as high resolution rates and reduced burden on courts, data driven transparency mechanisms including publication of performance metrics further enhance accountability and trust in the system⁶⁵.

Table 2 Comparison: Standard Models vs. India

Feature	EU Consumer ODR Platform	Brazil consumidor.gov.br	India
Legal basis	Directly applicable EU Regulation 524/2013 mandating an EU level ODR portal	Executive acts and consumer protection policy making it the official federal digital channel	General ADR/IT statutes plus sector specific regulations
Institutional design	Single central platform run by European Commission, national ADR entities plug in	Single national platform run by consumer agency (SENACON) focused on direct negotiation	Multiple platforms run by different regulators and institutions
Scope	Cross border and domestic B2C disputes from online sales or services within the EU	Domestic consumer business disputes across sectors primarily B2C	Mis of B2C, B2B/ MSME, domain name and court annexed mediation

https://www.academia.edu/122482018/Consumer_Protection_and_Online_Dispute_Resolution_in_Brazil (last visited on 03/05/2026)

⁶⁴ Online Dispute Resolution and Digital Public Infrastructure-What are the most effective pathways to scale? DIGITAL IMPACT ALLIANCE available at <https://dial.global/online-dispute-resolution-pathways-to-scale/> (last visited on 03/05/2026)

⁶⁵ UNCTAD, Global Online Dispute Resolution for Consumers: An UNCTAD technical cooperation proposal available at https://unctad.org/system/files/information-document/tdrbpconf10_unrc_odr_project_proposal_en.pdf (last visited on 03/05/2026)

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Process model	Central intake-routing to ADR body-ADR procedure often online via platform tools, multilingual support	Direct online complaint-company response or negotiation-closure or escalation to other mechanism, high reliance on structured negotiation	Case type specific models—negotiation and conciliation on portals, online arbitration, online mediation and adjudication.
Degree of centralization	High: one EU portal for all online consumer disputes now discontinued but norm setting	High: one national portal for consumer disputes, widely used and embedded in policy	Low – medium: policy vision is central but operationally fragmented across ministries, regulators and private platforms.

THE EXECUTION

Indian implementation of ODR faces a cluster of deep theoretical and practical challenges that cut across law, technology and legal culture.

Jurisprudential Challenges to the Legitimacy and Normative Grounding of ODR

- ODR sits apprehensively between public adjudication and private ADR raising doubts about whether it is merely a service or part of the state's obligation to provide access to justice in a constitutional democracy like India⁶⁶.

⁶⁶ N.Yogeshwaran, "The Efficacy of Online Dispute Resolution (ODR) in Overcoming Jurisdictional Barriers in India" 11 IJMR 138 (2025)

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- There is a jurisprudential tension between maximizing efficiency through default or mandatory ODR clauses and protecting weaker parties from being forced into private, opaque systems that may dilute their rights⁶⁷.
- Theoretical concerns about structural bias, opacity of algorithms used for triage or negotiation assistance and difficulty of subjecting platform design choices to constitutional or administrative law scrutiny.
- Shift from code based regime to contractual regime raises theoretical questions about balance between state regulation and industry self regulation in a domain that directly affects fundamental rights and access to justice⁶⁸.

Structural, Behavioral and Operational Challenges

- Uncertainty about the recognition and enforcement of ODR outcomes especially non arbitral settlements, the applicable procedural safeguards and regulatory oversight over private ODR providers⁶⁹.
- Absence of dedicated registration, accreditation or supervisory mechanism for ODR platforms and neutrals that makes it difficult to assess competence, neutrality, quality assurance and accountability of providers⁷⁰.
- ODR process involves sensitive personal, commercial and evidentiary data; concerns about hacking, unauthorized access, online impersonation, data breaches and tampering of digital records are recurrent in Indian analyses⁷¹.

⁶⁷ Sanya Sethia, "Online Dispute Resolution in India: Feasibility, Challenges and the Future" GLOBAL BUSINESS LAW REVIEW available at <https://gblrsclp.in/2021/08/24/online-dispute-resolution-in-india-feasibility-challenges-and-the-future/> (last visited on 03/05/2026)

⁶⁸ Sukanya Roy, "Online Dispute Resolution in India: Success or Failure?" 3 IJIRL available at <https://ijirl.com/wp-content/uploads/2023/12/ONLINE-DISPUTE-RESOLUTION-IN-INDIA-SUCCESS-OR-FAILURE.pdf> (last visited on 03/05/2026)

⁶⁹ Nayak Prem Kiran, "ODR in India: Challenges and Opportunities" available at https://www.scribd.com/document/808356342/odr-draft#google_vignette (last visited on 03/05/2026)

⁷⁰ Supra n. 21

⁷¹ Primus Partners, "Can Odr Be The Game Changer For The Digital Economy? Recommendations To Empower The Digital Nagriks" available at <https://primuspartners.in/docs/documents/B5CCex7rcRswcwtdkBEI.pdf> (last visited on 03/03/2026)

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- Low public awareness of ODR options, cultural attachment to in-person hearings and reluctance of government departments and large institutions to commit to ODR clauses impede mainstreaming, despite policy pushes⁷².
- Court staffs, registry personnel and legal aid structures are also not uniformly equipped to support hybrid or fully online proceedings, making it difficult to institutionalize ODR beyond isolated pilots or private schemes⁷³.
- Technical glitches, low bandwidth optimization issues and lack of interoperable systems with e-courts or online filing portals can disrupt proceedings and erode confidence in ODR as a reliable process.

CONCLUSION AND SUGGESTIONS

A stronger model of ODR for contemporary justice systems can be built by synthesizing UNCITRAL's principled platform centered three stage process; the EU's regulatory approach to information, accreditation and user rights and Brazil's simple high volume, data-driven public platform design. A hybrid model can be framed against India's existing sectoral ODR schemes to show how they could be federated under a unified architecture.

1. Create a national gateway as the primary entry point and a router that applies UNCITRAL's three stage process while directing cases to appropriate sub schemes as needed.
2. Enact an ODR specific statute or a comprehensive chapter that codifies ODR definitions and establishes the public ODR gateway with express legal recognition of online settlements and awards.
3. Mandate online traders and major platforms inform users of the ODR gateway and relevant schemes by providing direct links and a standardized ODR information page.
4. Ensure fees and time limits are proportionate to the value of the claim and so in the procedures for low value disputes and complex or high value matters.
5. Establish an expert ODR council to accredit platforms and neutrals, maintain the central gateway and issuing the practice directions.
6. Courts should accept certified ODR records as electronic evidence.

⁷² Supra n. 21

⁷³ Ibid

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7. Use the ODR gateway as a pre-litigation or parallel track encouraging parties to first attempt ODR for specified categories of disputes.