

# A Critical Analysis of Online Dispute Resolution in India: Justice in the Digital Age

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**Abstract:** In the era of technological advancement, the traditional method of dispute resolution, that is, litigation and Alternative Dispute Resolution (ADR) has evolved into a new paradigm, Online Dispute Resolution (ODR). Through ODR, parties can resolve disputes entirely online, encompassing every stage of the process, from filing a claim and conducting oral hearings to presenting witness testimony and obtaining outcomes such as mediated settlement agreements or arbitral awards. However, this shift is not ideal and without challenges, including issues such as the digital divide and concerns over privacy. In this paper, the authors examine the ODR platform Sama and its rules on arbitration and mediation, analyze the challenges facing ODR, and conclude by emphasizing the need for statutory recognition and a legal framework for ODR in India.

**Keywords:** Online Dispute Resolution (ODR), Alternative Dispute Resolution (ADR), Arbitration, Mediation, Sama, Technology

## I. Introduction

India's dispute resolution landscape is defined by a vast and overburdened judicial system. As of the end of 2024, the total number of pending cases across high courts and subordinate courts exceeded five crore, reflecting a dramatic increase of over 30% in backlog since 2020 and highlighting the chronic inability of the system to keep pace with new filings and disposals. More than half of all cases in high courts have been pending for over five years, and judge vacancies remain high, further exacerbating delays and eroding public faith in the justice system.<sup>1</sup> Despite efforts at e-filing and digitisation, the human and economic costs of this backlog are immense, with justice delayed for years and millions of litigants awaiting resolution.

This crisis underscores the urgent need for fast, affordable, and accessible justice. Traditional dispute resolution mechanisms including litigation and conventional Alternative Dispute Resolution methods like offline arbitration and mediation have not been able to adequately address the mounting pendency. Structural barriers such as procedural complexity, high costs, limited reach, and lengthy timelines have limited the effectiveness of these mechanisms, especially for small businesses, consumers, and marginalized groups.

In response, Online Dispute Resolution (ODR) has emerged as a transformative solution. The rise of ODR platforms supported by government policy, judicial endorsement, and digital infrastructure has enabled parties to resolve disputes remotely, efficiently, and at a fraction of the cost of traditional litigation. Recent legislative and regulatory developments, including amendments to the Arbitration and Conciliation Act, the enactment of the Mediation Act, and sectoral mandates in areas such as securities and MSME disputes, have further legitimized ODR and encouraged its mainstream adoption.<sup>2</sup>

Throughout centuries traditional courts have marked a noticeable command to bring over justice to its persons and resolve disputes. However, as time evolved, the Online Dispute Resolution (ODR) has become one of the innovative methods which utilizes the nascent technology in the field of access to justice. With the world advancing towards its fifth industrial revolution on AI, traditional courts remain a deadlock towards it, ODR is a solution emanating from many countries that have identified the need for development in this field and have extensively researched on the idea of digital justice and its implementation through the nascent technology.

## II. Legal Framework and Recognition of ODR in India

The legal framework for Online Dispute Resolution (ODR) in India has evolved rapidly in response to the need for accessible, efficient, and technology-driven justice. This framework is grounded in statutory provisions, judicial pronouncements, regulatory initiatives, and policy reforms, all of which collectively establish the legitimacy, enforceability, and operational contours of ODR mechanisms.

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<sup>1</sup> Pavan Korada, '5 Crore Cases and Counting: India's Courts Are Struggling to Clear the Pile-up - the Wire' (The Wire 17 April 2025) <<https://thewire.in/law/5-crore-cases-and-counting-indias-courts-are-struggling-to-clear-the-pile-up>>.

<sup>2</sup> NITI Aayog, Designing the Future of Dispute Resolution: The ODR Policy Plan for India (2021).

The Arbitration and Conciliation Act, 1996 is the principal statute governing arbitration in India. Section 7 of the Act defines an arbitration agreement<sup>3</sup> and, as clarified by the Supreme Court, includes agreements concluded through electronic means such as email or digital communication. This position was affirmed in *Trimex International FZE Ltd. v. Vedanta Aluminium Ltd.*, where the Supreme Court held that an arbitration agreement formed by exchange of emails is valid and enforceable under *Section 7*, directly supporting the legitimacy of ODR platforms.<sup>4</sup>

The Information Technology Act, 2000 further strengthens the statutory basis for ODR. Sections 4 and 5 of the Act grant legal recognition to electronic records and digital signatures, ensuring that contracts, arbitration agreements, and proceedings conducted online are legally valid and enforceable.<sup>5</sup> Section 65B of the Indian Evidence Act, 1872 facilitates the admissibility of electronic evidence in legal proceedings, a crucial requirement for the conduct of ODR.<sup>6</sup>

The Consumer Protection Act, 2019 introduces a statutory mandate for ODR in the context of consumer disputes. Section 94(1)(g) requires e-commerce entities to establish ODR mechanisms for the resolution of consumer grievances, embedding ODR within the regulatory framework for consumer protection.<sup>7</sup>

Recent regulatory initiatives, such as the Securities and Exchange Board of India (SEBI) Master Circular on Online Dispute Resolution (2023),<sup>8</sup> have also institutionalized ODR for the securities market, mandating the use of digital platforms like the SMART ODR Portal for investor grievances.

### **III. SAMA ODR Platform**

SAMA, recognized by the Ministry of Law & Justice in 2017<sup>9</sup>, is one of India's earliest & most prominent ODR platforms, established with the aim of democratizing access to dispute resolution through low-cost, scalable mediation and conciliation. Sama has worked with various government agencies, including the National Legal Services Authority (NALSA), SEBI, and multiple High Courts, making it one of the institutionally integrated ODR platforms in the country. Sama is reimagining India's justice system to be open, fully online, and collaborative. A new justice system where individuals are treated with love and respect, conflicts are settled swiftly and fairly, and holistic resolution is a real, attainable objective rather than simply a pipe dream.

The Sama Rules govern all proceedings conducted via the platform and are formulated to align with prevailing Indian laws, including the Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023. According to the Rules, once parties agree to submit disputes to Sama, the rules become automatically binding upon them, unless in conflict with any mandatory provisions of law or specific party agreements.<sup>10</sup>

The Rules have legal effect from 1 July 2024 and apply to both fresh and ongoing proceedings. Sama functions purely as a neutral administrative service provider and does not assume an adjudicatory role. However, it supports the conduct of proceedings through tools like digital communication, pre-proceeding calls, document uploading, and e-signatures, thereby enhancing procedural efficiency. From the beginning of the case until the final award or settlement, the Sama platform facilitates the entire process while providing administrative services like scheduling, document processing, and neutral (arbitrator/mediator) appointment. Financial claims, property-related concerns, marital matters, and consumer grievances are just a few of the many disputes for which these services are offered.

#### **A. Arbitration under Sama Rules (2024)**

The Arbitration Rules provided under the Part II of the SAMA<sup>11</sup> rules provides a thorough and organized process for settling conflicts through institutional arbitration. The technology mainly enables document-based and virtual arbitration; in-person hearings are only permitted if both parties agree. The arbitral tribunal, which also has the authority to choose the venue in the event of a dispute or to allocate expenses, must authorize such consent. The hearing stage, when opted for, is conducted after the completion of all pleadings and usually occurs daily, unless otherwise directed by the arbitral tribunal or under a fast-track arbitration model. If a party fails to appear without justified reason, the tribunal is empowered to continue with the proceedings based on existing records and evidence and render a binding award.

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<sup>3</sup> Arbitration and Conciliation Act, No. 26 of 1996, § 7 (India).

<sup>4</sup> *Trimex Int'l FZE Ltd. v. Vedanta Aluminium Ltd.*, (2010) 3 SCC 1 (India).

<sup>5</sup> Information Technology Act, No. 21 of 2000, §§ 4, 5 (India).

<sup>6</sup> Indian Evidence Act, No. 1 of 1872, § 65B (India).

<sup>7</sup> Consumer Protection Act, No. 35 of 2019, § 94(1)(g) (India).

<sup>8</sup> SEBI/HO/OIAE/OIAE\_IAD-3/P/CIR/2023/195, July 31, 2023 (India).

<sup>9</sup> 'Online Lok Adalat', SAMA <<https://www.v1.sama.live/lokadalat.php>>

<sup>10</sup> 'Sama Rules on Alternative Dispute Resolution', SAMA <[https://www.sama.live/rules\\_and\\_procedures-2024](https://www.sama.live/rules_and_procedures-2024)>

<sup>11</sup> 'Sama Rules on Alternative Dispute Resolution', SAMA <[https://www.sama.live/rules\\_and\\_procedures-2024](https://www.sama.live/rules_and_procedures-2024)>

A hallmark of the Sama arbitration process is its strict adherence to efficiency through prescribed timelines. The goal of the arbitration procedure is to wrap up within ninety calendar days after the start of the proceedings. Only under extraordinary circumstances are adjournments allowed, and they require written justification. This strict timeline aims to foster trust in digital dispute resolution and alleviate the ongoing delays connected to traditional litigation. Furthermore, once the hearing is concluded, the award must be prepared and made within five days, according to the Sama Rules. This deadline may be extended by ten days with good legitimate reason and any further extension can only be granted through court intervention under Section 29A of the Arbitration and Conciliation Act, 1996. Fresh proceedings can be initiated if award is not delivered. The arbitral award under Sama must be in writing and signed by all tribunal members or by a majority in case of absence or incapacity of one member. It must contain reasons for the decision unless expressly waived by the parties and include the date, place of arbitration, and cost allocation. Where the dispute is resolved through settlement, the award must clearly reflect that the resolution was arrived at by mutual consent. The final award is uploaded on the Sama platform, and certified copies are issued after clearance of administrative and tribunal fees. The Sama framework also permits the issuance of interim, partial, or additional awards where appropriate.

Regarding applicable law, Indian substantive law governs domestic arbitrations. In international commercial arbitrations, the parties are free to designate a legal system, failing which Indian law will apply. Arbitrators may only decide matters on principles of equity (*ex aequo et bono*) or as *amiable compositeurs* when expressly authorized by the parties.

Under the Sama Rules (2024), arbitration proceedings are initiated when a party (the Claimant) submits a Letter of Request along with relevant documents such as a pre-arbitration notice, contract details, and a brief on the dispute. Sama appoints a Case Manager within three days to guide the parties through the process. The tribunal is typically constituted by a sole arbitrator unless otherwise agreed. If the parties fail to mutually nominate an arbitrator, Sama's Registrar provisionally appoints one, subject to disclosures under Section 12 of the Arbitration Act<sup>12</sup>. Parties have limited time to object, failing which the appointment becomes final. Challenges to the arbitrator's appointment are allowed on grounds of bias or conflict of interest, and Sama can replace arbitrators if they are unable to perform their duties. The process ensures efficiency, transparency, and adherence to statutory safeguards under the Arbitration and Conciliation Act, 1996.

The Sama Rules (2024) introduce a unique in-house appellate mechanism for setting aside interim orders or arbitral awards in limited circumstances. A party may file an application to set aside an award before Sama's Appellate Arbitral Tribunal, provided no petition under Section 34 of the Arbitration and Conciliation Act, 1996<sup>13</sup> has been preferred, or if such a petition was dismissed at the threshold without addressing merits. This internal remedy is strictly limited to certain grounds, such as incapacity of a party, non-existence of the arbitration agreement, lack of arbitrability, procedural lapses (e.g., incorrect addresses or failure to give notice), technical errors like uploading an award in the wrong case, or fraud. Importantly, awards passed in cases involving deceased parties without legal representation or those affected by fundamental procedural irregularities may also be challenged. The application must be filed within three months from receipt of the award, but the Appellate Tribunal has discretion to condone delays in the interest of justice. The Registrar or affected party may initiate such appeals, but only on the enumerated grounds. The Appellate Tribunal may decide the matter with or without hearing the opposite party and is required to dispose of the appeal within one month. This process operates without prejudice to the party's right under Section 34 of the Arbitration Act, thereby offering an additional but narrow remedy for correcting grave errors before enforcement.

## B. Conciliation under Sama Rules (2024)

The Sama Rules, 2024, provide a detailed framework for conducting conciliation proceedings in disputes arising from legal relationships, whether contractual or otherwise. Conciliation can be initiated under Sama if there is a prior conciliation clause, a mutual written agreement to conciliate, or an intention to amicably resolve an existing dispute. A party can register the dispute on Sama's platform by submitting relevant contact details, a brief description of the dispute, relief sought, and supporting documents. Alternatively, both parties may submit a joint request along with agreed settlement terms. Upon registration, an invitation is sent to the respondent party, and proceedings commence upon their acceptance. If there is no response within 30 days, or the invitation is rejected, the process is deemed terminated.

A case manager is appointed to assist with communication, process clarity, and verification. A single conciliator is typically appointed by Sama's Registrar from its panel, although parties may agree to have more. The conciliator is not bound by the Code of Civil Procedure, Indian Evidence Act, or Bharatiya Sakshya Adhiniyam, 2023, and is guided by principles of fairness, objectivity, and justice. The role of the conciliator is to facilitate settlement discussions independently and impartially, possibly by submitting written proposals for resolution. Statements and documents submitted by parties are uploaded and shared transparently on the Sama platform.

The process emphasizes confidentiality, flexibility, and speed, mandating completion of conciliation within 45 days from the respondent's acceptance, extendable by the conciliator. If a settlement is reached, it is recorded in a written settlement

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<sup>12</sup> The Arbitration and Conciliation Act, No. 26 of 1996, § 12, India Code (1996)

<sup>13</sup> The Arbitration and Conciliation Act, No. 26 of 1996, § 34, India Code (1996)

agreement, authenticated by the conciliator, and is binding on the parties with the same legal effect as an arbitral award under Section 30 of the Arbitration and Conciliation Act, 1996. Termination occurs either upon signing the settlement agreement, a declaration that further attempts are unjustified, or if parties switch to arbitration or other proceedings.

The conciliator cannot act as arbitrator, counsel, or witness in related legal proceedings, and parties are barred from introducing conciliatory communications—such as admissions, settlement proposals, or offers as evidence in subsequent judicial or arbitral forums. Thus, Sama's conciliation framework ensures a streamlined, confidential, and legally sound mechanism for amicable dispute resolution, with strong safeguards for procedural integrity and enforceability.

### **C. Mediation under Sama Rules (2024)**

The Sama Rules, 2024, lay down a comprehensive framework for voluntary, structured, and confidential mediation. A mediation agreement, either as a clause or separate document, can be executed in writing via physical or electronic means. Mediation may also be invoked voluntarily even without a prior agreement, particularly under the pre-litigation mechanism governed by the Mediation Act and Section 12A<sup>14</sup> of the Commercial Courts Act for commercial disputes of specified value.

However, mediation is restricted in certain cases, including those involving minors, unsound persons, criminal prosecutions, regulatory complaints, taxation, third-party rights (except in some matrimonial cases), and matters under specified regulatory tribunals or authorities. The rules permit only one mediator unless parties agree otherwise, and mediators are appointed by the Registrar from Sama's empanelled neutrals. Mediators must disclose any conflict of interest before or during proceedings, and parties may waive objections through written consent.

Mediation is initiated when a party registers the dispute and supporting details on the Sama platform. If the other party accepts the invitation within 30 days, proceedings commence; if they reject or fail to respond, the process is terminated. Sama appoints a case manager to facilitate process coordination and communication between the parties and the mediator. Mediators may request submissions, but they are not bound by the Code of Civil Procedure or Evidence Acts, enabling flexibility.

The mediator's role is to assist in an impartial and independent manner, promoting settlement based on principles of fairness, justice, and commercial usage. The mediator may propose settlement terms in writing but cannot impose outcomes. Communications remain confidential and inadmissible in legal proceedings, safeguarding the integrity of the process.

Mediation must be concluded within 45 days from the date of consent, subject to extension. If a settlement is reached, it is reduced to writing, signed by parties, authenticated by the mediator, and submitted to the Registrar. Such a mediated settlement agreement is legally enforceable as a judgment under the Code of Civil Procedure. Parties may also register it with a notified authority for official records. If no settlement occurs, a non-settlement report is filed without disclosing reasons. Mediators cannot act in related arbitral or judicial proceedings, and communications during mediation are privileged. Overall, the Sama Mediation Rules provide a structured, time-bound, and confidential framework for dispute resolution in line with modern ADR standards.

### **IV. Challenges and Limitation**

The efficiency and scalability of online dispute resolution (ODR) in India are hampered by a number of complex issues and constraints that cut across the legal, social, and technical spheres. If these obstacles are not removed, there is a risk restricting ODR's potential as a tool for transformative justice. The digital gap continues to be a significant technological barrier. By 2025, only 54% of Indians will be online<sup>15</sup>, while 66% of the country's population lives in rural areas, where sporadic internet connectivity is worsened by BharatNet's unfinished rollout<sup>59</sup>. The elderly (15%) and women (33% internet penetration) are disproportionately impacted by this exclusion, which biases ODR's outreach toward tech-savvy, urban users<sup>16</sup>.

Another challenge is cybersecurity; platforms like SAMA may have issues of encryption, leaving private dispute data vulnerable to hacks. This is made worse by India's 5.2 million cyberattacks in 2024. These flaws undermine trust, which is necessary for ODR to be adopted. Enforceability continues to be a crucial legal constraint. Common perceive that the Mediated ODR settlements or online arbitral awards lack the same legal power as a decree of a civil court or physical ADR outcomes. Judicial scepticism makes this problem worse. Some judges doubt the procedural fairness of online dispute resolution (ODR), considering it less rigorous than in-person hearings, even though cases like as Shakti Bhog v. Kola

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<sup>14</sup> The Commercial Courts Act, No. 4 of 2016, § 12A, India Code (2016)

<sup>15</sup> 'Designing the Future of Dispute Resolution: The ODR Policy Plan for India', NITI Aayog, (Oct 2021) 60  
<<https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>>; 'BharatNet Extending Internet Access, Expanding Rural Progress', Ministry of Communications  
<<https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2123137>>

<sup>16</sup> Indian Computer Emergency Response Team, 'Cybersecurity Statistics 2024' (2025)

Shipping<sup>17</sup> support online proceedings. ODR's dependence on digital records is made more difficult by the evidentiary burden under *Anvar P.V. v. P.K. Basheer*<sup>18</sup>, which calls for Section 65B (4) certification and increases the possibility that uncertified results may be rejected. Resistance to technology and a lack of digital literacy impede societal advancement<sup>19</sup>. According to NITI Aayog, just 38% of rural adults are technologically proficient, which hinders their use of ODR platforms. The limited uptake of the Online Consumer Mediation Center indicates that reluctance is fueled by a cultural predilection for in-person adjudication, which has its roots in India's oral legal heritage. The ability of stakeholders, including litigants, mediators, and attorneys, also lags, with training programs reaching just 12% of legal professionals by 2024<sup>20</sup>.

One could claim that a virtual interface hinders mediators' ability to do their duties and establish a rapport of trust with the parties. Parties might not communicate or work together on sensitive information, which would lower the process's quality. Conventional mediation also uses techniques that help both sides "humanize" one another and comprehend opposing viewpoints. The internet interface can make it more difficult for the parties to "humanize" the problems and find a quicker, more efficient solution to the disagreement. Online mediation is still being evaluated for some issue types where there is a significant emotional interaction, such as family, marital, child custody, etc. Additionally, in online mediation, mediators do not have effective influence over the mediation process. When contentious conversations arise during a mediation process in traditional mediation, it is the mediator's duty to keep things polite. Either calling private caucuses or requiring cooling-down periods from the parties are two ways to do this. However, in online mediation, there can be circumstances in which the mediator has no control over the main communication channel.

Furthermore, it is argued by the critiques that there is lack of proper ODR framework or legislation in India, stating that this is leading to an big research gap when talking about enforceability<sup>21</sup>. *There are further challenges or limitation "like digital infrastructure which Dalberg's 2021 study quantifies as critical, noting ODR's potential to unlock US\$26.5 billion annually if these barriers are addressed"*<sup>22</sup> Disparities are also shown by scholarly discourse. The digital divide—just 54% of Indians having internet access—is a major obstacle to the equitable adoption of ODR, especially for rural and vulnerable groups, according to Sharma's findings in the Indian Journal of Law and Technology. In contrast, practitioners such as those at Agami have optimistic views, documenting over 20 ODR companies by 2024, indicating strong growth in the private sector.<sup>23</sup>

## V. CONCLUSION

Online Dispute Resolution in India does not merely mark a technological shift; it signals a philosophical challenge to the very nature of justice delivery. In moving from physical courtrooms to virtual platforms, India is renegotiating the relationship between access, efficiency, and fairness the three pillars on which its justice system rests. The comparative analysis of Sama, CADRE, and Online Legal India illustrates a profound tension at the heart of this transition: while technology is solving old problems of delay, cost, and geographical barriers, it is simultaneously producing new concerns about transparency, enforceability, procedural legitimacy, and digital exclusion. The rise of platforms like Sama and CADRE shows that ODR is not simply about dispute resolution; it is about institution-building in the digital age. Sama's integration with courts and regulators suggests that ODR is capable of coexisting with formal adjudication without being subordinate to it. CADRE's algorithmic neutrality and user-driven design show the possibilities for private innovation to elevate public interest goals. Yet, these successes also expose a fragility one that becomes apparent when we examine Online Legal India. Its lack of codified rules, opacity in appointment processes, and the absence of published procedural safeguards demonstrate that without institutional accountability, digital justice can be as flawed as the systems it seeks to replace.

This brings us to the issue whether the digital process uphold the moral and symbolic values of justice traditionally associated with courts. One might argue that ODR platforms are too mechanized, too impersonal, to recreate the solemnity and interpersonal care that in-person mediation or adjudication entails. But this critique assumes that form equals fairness. In truth, many litigants in India especially those from vulnerable or underrepresented communities—have found the court system to be alienating, expensive, and slow. For them, procedural minimalism and technological immediacy may feel not like compromise, but empowerment. ODR thus forces us to rethink fairness not as a static procedural ideal, but as a functional outcome that aligns with speed, agency, and cost-efficiency.

<sup>17</sup> Shakti Bhog v Kola Shipping (2009) 2 SCC 134

<sup>18</sup> Anvar P.V. v P.K. Basheer & Ors (2014) 10 SCC 473

<sup>19</sup> Rohan Sharma, 'Digital Divide and ODR in India' (2022) 45(2) Indian Journal of Law and Technology 89, 100.

<sup>20</sup> Rachel I. Turner, 'Alternative Dispute Resolution in Cyberspace: There is More on the Line, Than Just Getting "Online,"' (2000) 7 ILSA J. Int'l & Comp. L. 133, 147- 148

<sup>21</sup> Vidhi Centre for Legal Policy, ODR: The Future of Dispute Resolution in India (2020) 18.

<sup>22</sup> Aditi Singh, Nirat Bhatnagar & Charles Hobbs, Accelerating the Adoption of ODR in India, Dalberg (2021)

<sup>23</sup> Agami, 'ODR Ecosystem Report 2024' (2024)

That said, justice cannot be reduced to output metrics alone. Legitimacy in ODR cannot depend solely on resolution speed. It must be earned through transparent processes, qualified neutrals, legal enforceability, and user trust. This is where India's current ODR architecture faces its greatest test. The absence of a standalone legislative framework allows platforms too much discretion, leading to procedural asymmetries and confusion around rights, appeal, and enforcement. Without codified minimum standards and a specific legal framework for ODR, ODR risks devolving into a fragmented marketplace of variable-quality platforms, some of which may undermine rather than uphold justice. Therefore, ODR needs a statutory framework within the Indian jurisdiction to streamline the online dispute resolution industry and create a conducive environment for all the different stakeholder of ODR.