



THE USE OF ADR IN RESOLVING DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS

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Abstract: *The number of conflicts that needs to be resolved has grown due to the increasing role played by Social media and online platform. Thanks to the benefits such as reduced costs, more flexible ways of dealing with disputes, ADR has become an important tool to deal with social media and online platform issues. A number of possibilities are available through ADR, such as mediation, arbitration and negotiation. There are still issues, though, such a murky legal framework and trouble discovering and identifying parties. Despite these challenges, ADR provides a more collaborative, cost-effective, and adaptable process than traditional litigation. It offers a higher success rate and a greater likelihood of achieving a mutually satisfactory outcome. Therefore, ADR offers a useful tool for resolving conflicts related to social media and online platforms.*

Keywords: *Alternate Dispute Resolution (ADR), social media, Online platform disputes, Jurisdiction, Individuals and Business*

INTRODUCTION

The increasing use of social media and online platforms has given rise to a wide range of conflicts such as online defamation, cyberbullying, and other digital disputes. These disputes can be challenging to resolve through traditional litigation due to their complex nature and difficulty in identifying responsible parties. ADR methods have proven to be an effective alternative to traditional litigation in resolving disputes related to social media and online platforms. ADR methods such as negotiation, mediation, arbitration, and ODR can be used to address conflicts related to online defamation, cyberbullying, and other digital disputes. ADR offers many benefits such as cost-effectiveness, privacy and confidentiality, time-efficiency, and flexibility. However, challenges remain in using ADR in these cases such as lack of awareness about ADR methods, difficulty in identifying responsible parties, and difficulty in enforcing ADR decisions.

The legal landscape regarding ADR in resolving online disputes is also evolving, and this blog will explore case laws and legal provisions related to ADR in this area.

The importance of ADR in resolving disputes related to social media and online platforms cannot be overstated. These disputes can have a significant impact on individuals and businesses, affecting their reputation, livelihoods, and mental health. ADR methods offer an effective and efficient alternative to traditional litigation, which can be time-consuming, costly, and public. ADR methods such as negotiation, mediation, arbitration, and ODR can provide a quicker and more cost-effective solution to resolving conflicts related to social media and online platforms. Moreover, ADR offers a greater degree of privacy and confidentiality, allowing parties to resolve disputes without airing their dirty laundry in public. ADR methods can also be tailored to the specific needs of the parties involved, providing a flexible and customizable approach to conflict resolution. Overall, ADR can be a valuable tool in resolving disputes related to social media and online platforms, promoting amicable resolutions and reducing the strain on the court system.

UNDERSTANDING ADR

ADR, or Alternative Dispute Resolution, refers to a range of methods and techniques that parties can use to resolve disputes outside of traditional courtroom litigation.¹

The Arbitration and Conciliation Act is a legislation enacted in India in 1996 to provide for the arbitration and conciliation of domestic and international disputes. According to the Arbitration and

¹ Scott H. Blackman & Rebecca M. McNeill, *Alternative Dispute Resolution in Commercial Intellectual Property Disputes*, 47 AM. UNIV. LAW REV. 1709 (1998).

Conciliation Act, ADR is defined as “any method of resolving disputes other than by adjudication of a court and includes arbitration, conciliation, and mediation”².

The goal of ADR is to provide a quicker, less costly, and more flexible means of resolving disputes, while also promoting amicable and mutually acceptable outcomes.³

There are several types of Alternative Dispute Resolution (ADR) methods available to parties to resolve disputes outside of traditional courtroom litigation. The most common ADR methods include “Negotiation, Arbitration, Mediation and Online Dispute Resolution.” Other less common ADR methods include conciliation, mini-trials, summary jury trials, and hybrid ADR methods that combine different methods.⁴

The choice of ADR method depends on the nature of the dispute, the parties involved, and the desired outcome.⁵

NEGOTIATION

Negotiation is an ADR method that involves a direct conversation between the parties involved in a dispute. In negotiation, the parties attempt to find a mutually acceptable solution to the dispute through a give-and-take process of discussion and compromise⁶.

During negotiation, each party presents their side of the dispute and their desired outcome. The parties then work to find common ground and reach a resolution that satisfies both parties. The negotiation process can involve multiple rounds of discussion, and may be facilitated by a neutral third-party mediator.

One of the primary advantages of negotiation is that it allows the parties to maintain control over the outcome of the dispute. By engaging in direct conversation and reaching a mutually acceptable resolution, the parties can avoid the cost and uncertainty of litigation or arbitration.

Negotiation can also be a faster and more efficient method of resolving disputes than litigation or arbitration. Because the parties are directly involved in the negotiation process, they can work together to find a solution that meets their needs and interests.

However, negotiation may not be suitable for all disputes. In cases where the parties are not willing to compromise or where the power dynamic is unequal, negotiation may not be effective. Additionally, negotiation may not be appropriate for disputes that involve complex legal or factual issues.

Overall, negotiation is an effective ADR method that can be used to resolve a wide range of disputes related to social media and online platforms. By engaging in direct conversation and working together to find a mutually acceptable solution, the parties can avoid the negative consequences associated with prolonged disputes and maintain control over the outcome of the dispute.

MEDIATION

Mediation is an ADR method that involves a neutral third-party mediator who assists the parties in reaching a mutually acceptable resolution to the dispute. The mediator facilitates communication between the parties and helps them to identify and address the underlying issues that have led to the dispute.⁷

During mediation, the mediator meets with the parties separately and together to discuss the dispute and explore potential solutions. The mediator does not have the power to impose a decision on the parties, but instead works to help the parties reach a mutually acceptable resolution.

² Frank E. A. Sander, *Alternative Methods of Dispute Resolution: An Overview*, 37 UNIV. FLA. LAW REV. (1985).

³ Jethro K. Lieberman & James F. Henry, *Lessons from the Alternative Dispute Resolution Movement*, 53 UNIV. CHICAGO LAW REV. 439 (1986).

⁴ Deborah R. Hensler, *Our Courts, Ourselves: How the Alternative Dispute Resolution Movement Is Re-Shaping Our Legal System*, 108 PENN STATE LAW REV. (2003).

⁵ Sai-On Cheung, Henry C. H. Suen & Tsun-Ip Lam, *Fundamentals of Alternative Dispute Resolution Processes in Construction*, 128 J. CONSTR. ENG. MANAG. 409 (2002).

⁶ Ellen E. Deason, *Procedural Rules for Complementary Systems of Litigation and Mediation - Worldwide*, 80 NOTRE DAME LAW REV. (2004).

⁷ Silpi Jain, Aryan Mohindroo & Harshil Manchanda, *Mediating the Irish Way: Taking an Alternative Approach to Alternative Dispute Resolution in India*, 87 ARBITR. INT. J. ARBITR. MEDIAT. DISPUT. MANAG. 67 (2021).



One of the primary advantages of mediation is that it is a confidential and informal process. The parties are free to speak openly about the dispute and explore potential solutions without fear that their statements will be used against them in future legal proceedings. Additionally, mediation is often less expensive and time-consuming than litigation or arbitration.

Mediation can also be an effective method for resolving disputes related to social media and online platforms, as it allows the parties to explore creative solutions that may not be available through traditional legal channels. The mediator can help the parties to identify underlying issues such as communication breakdowns or misunderstandings, and can work with the parties to develop strategies for improving communication and preventing future disputes.

However, mediation may not be suitable for all disputes. In cases where there is a significant power imbalance between the parties, or where one party is unwilling to engage in good faith negotiation, mediation may not be effective.⁸ Additionally, mediation may not be appropriate for disputes that involve complex legal or factual issues.

Overall, mediation is an effective ADR method that can be used to resolve a wide range of disputes related to social media and online platforms. By engaging in a confidential and informal process and working with a neutral third-party mediator, the parties can often reach a mutually acceptable resolution to the dispute that avoids the negative consequences associated with prolonged disputes.

ARBITRATION

Arbitration is an ADR method that involves a neutral third-party arbitrator who hears evidence and makes a binding decision on the dispute.⁹ The arbitrator is typically chosen by the parties and is often an expert in the subject matter of the dispute.

During arbitration, the parties present evidence and make arguments to the arbitrator, who then makes a decision based on the evidence presented. The decision is usually binding, meaning that the parties are obligated to accept and comply with the decision of the arbitrator.

One of the primary advantages of arbitration is that it is often faster and less expensive than traditional litigation. Additionally, the parties can choose an arbitrator who is knowledgeable about the subject matter of the dispute, which can lead to a more informed and well-reasoned decision.¹⁰ Arbitration can also be an effective method for resolving disputes related to social media and online platforms, as it allows the parties to avoid the negative consequences of prolonged disputes and maintain control over the outcome of the dispute.

However, there are also some disadvantages to arbitration. Because the decision of the arbitrator is usually binding, there is little opportunity for the parties to appeal the decision. Additionally, the parties may have limited discovery and evidentiary rights in arbitration, which can limit their ability to present their case effectively.¹¹

Overall, arbitration is an effective ADR method that can be used to resolve a wide range of disputes related to social media and online platforms. By engaging in a process that is often faster and less expensive than traditional litigation and working with a neutral third party arbitrator, the parties can often reach a mutually acceptable resolution to the dispute that avoids the negative consequences associated with prolonged disputes.

ONLINE DISPUTE RESOLUTION (ODR)

Online Dispute Resolution (ODR) is an ADR method that involves using technology to resolve disputes that arise in an online setting. ODR can include a variety of tools and techniques, such as video conferencing, email, and online negotiation platforms.¹²

⁸ John Forester, *Planning In the Face of Conflict: Negotiation and Mediation Strategies in local Land Use Regulation*, 53 J. AM. PLAN. ASSOC. 303 (1987).

⁹ Donna Shestowsky, *Procedural Preferences in Alternative Dispute Resolution: A Closer, Modern Look at an Old Idea.*, 10 PSYCHOL. PUBLIC POLICY, LAW 211 (2004).

¹⁰ Felix I. Lessambo, *Alternative Dispute Resolution*, in INTERNATIONAL PROJECT FINANCE 99 (2022).

¹¹ David L Erickson & Peter Geoffrey Bowen, *Two Alternatives to Litigation: An Introduction to Arbitration and Mediation*, 60 DISPUT. RESOLUT. J. 42 (2006).

¹² Eugene Clark, George Cho & Arthur Hoyle, *Online Dispute Resolution: Present Realities, Pressing Problems and Future Prospects*, 17 INT. REV. LAW, COMPUT. TECHNOL. 7 (2003), <http://www.tandfonline.com/doi/full/10.1080/1360086032000063084>.



One of the primary advantages of ODR is that it is often more convenient and accessible than traditional ADR methods.¹³ Because it can be conducted entirely online, parties from all over the world can participate in the process without the need for costly travel expenses or extended periods of time away from work.

ODR can also be an effective method for resolving disputes related to social media and online platforms. For example, online dispute resolution can be used to resolve disputes related to online defamation, cyberbullying, and other digital disputes. ODR platforms can provide a safe and neutral space for parties to communicate and resolve their disputes without having to engage in direct contact or exposure.

However, there are also some disadvantages to ODR. One potential drawback is that some parties may feel that the lack of face-to-face communication and interaction limits their ability to effectively communicate and advocate for their position.¹⁴ Additionally, because ODR is a relatively new field, there may be concerns about the security and confidentiality of the process.

Overall, ODR is an effective ADR method that can be used to resolve a wide range of disputes related to social media and online platforms. By leveraging technology to facilitate the process, parties can often reach a mutually acceptable resolution to the dispute that avoids the negative consequences associated with prolonged disputes.

AMBIT OF SOCIAL MEDIA AND ONLINE PLATFORMS

Online platforms¹⁵ relate to a wide range of websites, operations, and other digital tools that enable users to interact with each other, share content, and access services over the internet. This can include social media platforms such as Facebook, Twitter, Instagram, LinkedIn, and TikTok, e-commerce platforms such as Amazon, eBay, and Alibaba, online marketplaces such as Etsy and Airbnb, communication platforms such as Skype, Zoom, and Slack, online gaming platforms, video-sharing platforms such as YouTube, and other types of online communities and forums.

Social media platforms¹⁶ are a subset of online platforms and generally relate to digital tools that allow users to create, partake, and interact with content and other users in a social setting. Social media platforms generally include features such as user profiles, the ability to follow or connect with other users, the capability to partake text, images, videos, and other types of content, and various forms of engagement such as comments, likes, and shares.

The ambit of social media¹⁷ is constantly evolving as new platforms emerge and existing platforms expand their features and capabilities. Still, social media platforms generally encompass a wide range of online communities and communication tools that enable druggies to connect with others, share information, and engage in colorful forms of social commerce.

UNDERSTANDING THE ONLINE PLATFORM DISPUTES

The rise in online platform disputes can be attributed to the growing use of the internet and social media platforms for various purposes such as communication, commerce, and entertainment. With the increasing use of these platforms, there has been a corresponding increase in online transactions and interactions, which in turn has led to a rise in disputes related to these transactions and interactions.¹⁸ Disputes may arise between individuals, businesses, or between individuals and businesses, and may involve issues such as fraud, misrepresentation, breach of contract, intellectual property infringement, and defamation. The speed and anonymity of online communications can exacerbate these disputes, making it difficult for parties to resolve them amicably.¹⁹ As a result, the

¹³ Joseph W. Goodman, *The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites*, 2 DUKE LAW TECHNOL. REV. 1 (2003).

¹⁴ *Id.*

¹⁵ Definition of online platform | PCMag, <https://www.pcmag.com/encyclopedia/term/online-platform> (last visited Apr 1, 2023).

¹⁶ What Is Social Media?, <https://www.fannit.com/social-media/what-is-social-media/> (last visited Apr 1, 2023).

¹⁷ Scope & Benefits of Social Media in Digital marketing - Talentedge, <https://talentedge.com/articles/scope-benefits-social-media-digital-marketing/> (last visited Apr 1, 2023).

¹⁸ Peter Ladis & Gaurav Kumar, *Cyberspace and its Governance* (2020).

¹⁹ Suzanne Van Arsdales, *User Protection in Online Dispute Resolution*, 21 HARVARD NEGOT. LAW REV. 107 (2015).



use of alternative dispute resolution methods, such as mediation and arbitration, has become increasingly important in resolving online platform disputes in an efficient and cost-effective manner.

ADVANTAGES OF ADR IN RESOLVING ONLINE PLATFORM DISPUTES

1. **Time-Saving:** ADR methods like mediation and arbitration are faster than traditional court proceedings, saving time for both parties.
2. **Cost-Effective:** ADR methods are generally less expensive than litigation, as they require fewer legal fees and do not involve lengthy court proceedings.
3. **Confidentiality:** ADR methods are confidential, allowing parties to resolve disputes without public disclosure of sensitive information.
4. **Flexibility:** ADR methods are flexible and can be tailored to the needs of the parties involved. The parties can choose the mediator or arbitrator, select the location and timing of the proceedings, and determine the rules of the process.
5. **Expertise:** ADR methods allow parties to choose a neutral third party with expertise in the subject matter of the dispute, providing a more informed and efficient resolution.
6. **Preserves Relationships:** ADR methods are generally less adversarial than litigation, allowing parties to preserve their relationships and continue working together in the future.
7. **Finality:** ADR methods provide finality to the dispute, as the decision reached through mediation or arbitration is binding and enforceable.
8. **High Success Rate:** ADR methods have a high success rate, as parties are often more willing to comply with a decision that they helped to create.

CHALLENGES IN RESOLVING ONLINE PLATFORM DISPUTES THROUGH ADR

While ADR can offer a variety of benefits for resolving disputes related to social media and online platforms, there are also several challenges associated with its use in this context.

1. **Lack of Legal Framework:** One of the biggest challenges is the absence of a legal framework that addresses online disputes. This lack of clarity can lead to confusion over jurisdiction, applicability of laws, and enforceability of ADR decisions.
2. **Identification of Parties:** Online disputes can involve parties from different jurisdictions, which can make it difficult to identify and locate them. Additionally, parties may use fake identities or anonymous accounts, which can further complicate the process of resolving the dispute.
3. **Confidentiality:** Confidentiality can be challenging to maintain in online disputes, particularly in cases of cyberbullying or harassment, where the victim may not want to reveal their identity. Moreover, social media and online platforms have their own privacy policies that may conflict with ADR principles.
4. **Technical Issues:** Technical issues such as system errors, data loss, or hacking can pose a significant challenge to online dispute resolution. These issues may impact the reliability of evidence, and parties may question the integrity of the process.
5. **Power Imbalances:** Power imbalances can exist between parties in online disputes, particularly in cases of cyberbullying or harassment, where the perpetrator may have a greater online presence or influence. This can make it difficult to achieve a fair and equitable outcome.
6. **Lack of Participation:** In some cases, parties may be unwilling to participate in ADR due to a lack of trust in the process or a desire to pursue litigation. This can make it difficult to achieve a resolution and can prolong the dispute.
7. **Cultural Differences:** Online disputes may involve parties from different cultural backgrounds, which can lead to misunderstandings or miscommunications. This can make it difficult to reach an agreement and can lead to further conflict.
8. **Limited availability of ADR mechanisms:** One challenge in resolving online platform disputes through ADR is the limited availability of ADR mechanisms. While many online platforms have established ADR mechanisms, such as dispute resolution centers or ombudspersons, not all online platforms have such mechanisms. This can make it difficult for parties to resolve disputes

through ADR, particularly if they are using a platform that does not have an established ADR process.

9. Ground reality of court: Despite the availability of ADR mechanisms, some parties may choose to pursue litigation instead of ADR. This may be the result of a number of factors, such as a lack of confidence in the ADR procedure or the conviction that litigation would result in a better result. Additionally, some parties could believe that the dispute's stakes are significant enough to warrant a judicial order. Due to how time-consuming and costly litigation is frequently, this might result in delays and increased expenditures.
10. Appreciation of evidence: A key challenge in resolving online platform disputes through ADR is the appreciation of evidence. In many cases, evidence in online platform disputes is largely digital, such as chat logs or screenshots. This evidence can be subject to manipulation or deletion, which can make it difficult to determine the true facts of the case. Additionally, digital evidence can be complex and difficult to understand, particularly for non-technical parties. ADR mechanisms may not have the necessary expertise to properly evaluate digital evidence, which can lead to uncertainty or incorrect decisions.

To overcome these challenges, it is essential to develop an effective and reliable ADR framework that is tailored to the unique characteristics of online disputes. This framework should address issues such as jurisdiction, privacy, confidentiality, and technical issues while also ensuring a fair and equitable process. Additionally, it is important to educate the public about the benefits of ADR and to promote its use as an effective means of resolving online disputes. This can help to build trust in the process and encourage parties to participate in ADR, leading to quicker and more efficient resolution of disputes.

DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS

Social media and online platforms have revolutionized the way we communicate and interact with one another. However, their widespread use has led to an increase in disputes related to their use. These disputes can be complex, as they involve multiple parties, cross-border issues, and a range of legal and regulatory frameworks.²⁰

One of the most common disputes related to social media and online platforms is online defamation. This occurs when someone makes a false statement about another person or entity online that harms their reputation. Online defamation can have serious consequences, as it can damage a person's personal or professional reputation, leading to lost opportunities or income. Another common dispute is cyberbullying. Cyberbullying involves using the internet or social media platforms to harass or bully someone. This can include sending threatening messages, posting offensive or derogatory comments, or spreading false rumors. Cyberbullying can have a significant impact on a person's mental health, leading to anxiety, depression, and other emotional or psychological issues.

Intellectual property infringement is another common dispute related to social media and online platforms. This occurs when someone uses copyrighted material, such as images or videos, without permission or credit. With the ease of sharing information on social media, it can be difficult to keep track of who owns what content, leading to disputes over intellectual property rights.

Privacy violations are also a common source of dispute. This occurs when someone's personal information is improperly shared or used without their consent. With the amount of personal information shared online, privacy violations have become a significant concern for individuals and businesses alike.

Contract disputes related to social media and online platforms can also arise. This occurs when parties have a dispute over the terms and conditions of a contract related to the use of social media or online platforms.²¹ These disputes can be complex, as they may involve issues related to intellectual property rights, liability, and indemnification.

²⁰ Orna Rabinovich-Einy & Ethan Katsh, *Blockchain and the Inevitability of Disputes: The Role for Online Dispute Resolution*, 2019 J. DISPUT. RESOLUT. 47 (2019).

²¹ Julien Chaisse & Jamieson Kirkwood, *Smart Courts, Smart Contracts, and the Future of Online Dispute Resolution*, 5 STANFORD J. BLOCKCHAIN LAW POLICY 62 (2022).



Finally, consumer complaints related to social media and online platforms are becoming increasingly common. This occurs when consumers have complaints about products or services purchased through social media or online platforms.²² These complaints may relate to issues such as misrepresentation, non-delivery, or defective products.

ADR methods, such as mediation, arbitration, and ODR, can provide a more efficient and cost-effective means of resolving these disputes. By providing parties with a forum to negotiate and reach a mutually acceptable solution, ADR can help to mitigate the risks associated with social media and online platforms, and enable parties to move on from disputes quickly and effectively.

IMPACT OF THESE DISPUTES ON INDIVIDUALS AND BUSINESS

Disputes related to social media and online platforms can have a profound impact on both individuals and businesses. These disputes can range from online defamation and cyberbullying to intellectual property infringement, privacy violations, contract disputes, and consumer complaints. The impact of these disputes can be severe, leading to financial loss, reputational harm, and emotional distress. Individuals who are subject to online defamation and cyberbullying may experience significant emotional distress, which can impact their personal and professional relationships. They may also face reputational harm, which can lead to lost opportunities and damage to their brand. Intellectual property infringement can also have significant consequences for individuals, particularly for content creators or artists, who rely on their intellectual property for revenue and recognition.

For businesses, the impact of these disputes can be even more significant. Negative feedback or reviews on social media can damage a business's reputation, leading to lost revenue and customers. Intellectual property infringement can result in lost revenue, damage to brand reputation, and costly legal battles. Privacy violations can lead to regulatory fines, legal fees, and loss of customer trust. Contract disputes can lead to lost revenue, damage to relationships with vendors or partners, and costly legal battles.

In addition to financial losses, these disputes can also have a significant impact on the emotional well-being of business owners and employees. The stress of dealing with these disputes can be overwhelming, leading to burnout and decreased productivity. This can have a ripple effect on the business, leading to further financial losses and reputational harm.

It is therefore critical for individuals and businesses to proactively manage the risks associated with social media and online platforms. This can be done by implementing effective policies and procedures related to the use of social media and online platforms, including guidelines for acceptable behavior and content. Businesses should also have a plan in place for addressing disputes when they arise, including utilizing ADR methods to quickly and efficiently resolve disputes before they escalate.

Overall, the impact of disputes related to social media and online platforms can be significant, both financially and emotionally. It is important for individuals and businesses to take proactive steps to manage these risks and address disputes when they arise. Utilizing ADR methods can be an effective way to achieve resolution and avoid the negative consequences associated with prolonged disputes.

BENEFITS OF ADR IN RESOLVING DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE PLATFORMS

1. Confidentiality: ADR methods offer a confidential forum for resolving disputes related to social media and online platforms, providing parties with greater privacy and security than traditional court proceedings. This can be particularly important in cases where sensitive personal or business information is at risk of exposure.
2. Flexibility: ADR methods are often more flexible than traditional litigation, allowing parties to customize the process to their specific needs and objectives. Parties can choose the location, time, and scope of the ADR process, making it easier to reach a mutually agreeable resolution.

²² T S Korobeynikov, *Consumer Online Dispute Resolution*, in PROCEEDINGS OF THE INTERNATIONAL SCIENTIFIC CONFERENCE "FAR EAST CON" (ISCPEC 2020) 3323 (2020).



3. Cost-effectiveness: ADR methods can be a more cost-effective way of resolving disputes related to social media and online platforms than traditional litigation. ADR processes are typically less expensive and can be resolved more quickly, reducing the financial burden on parties involved.
4. Relationship preservation: ADR methods focus on collaboration and problem-solving, which can be effective in preserving relationships between parties. This is particularly important in disputes related to social media and online platforms, where parties may have ongoing relationships, such as business partnerships or co-parenting arrangements.
5. Creative solutions: ADR methods encourage parties to think creatively about possible solutions to their dispute, which can lead to more innovative and mutually beneficial outcomes. This is particularly relevant in disputes related to social media and online platforms, where there may be multiple stakeholders and interests involved.
6. Compliance: ADR methods rely on voluntary participation and mutual agreement, making it more likely that parties will comply with the outcome of the process. This can reduce the likelihood of ongoing disputes and litigation, which can be costly and time-consuming.
7. Accessibility: ADR methods, particularly online dispute resolution (ODR), are highly accessible, allowing parties from all over the world to participate in the process without the need for travel or lengthy absences from work. This can make ADR processes more convenient and efficient for parties involved.
8. Expertise: ADR methods can be particularly effective in resolving disputes related to social media and online platforms because they often involve complex technological and legal issues. ADR practitioners are often experts in these areas, allowing them to provide specialized guidance and insight into the dispute resolution process.
9. Speed: ADR methods can often be resolved more quickly than traditional litigation, which can drag on for months or even years. This can be particularly important in disputes related to social media and online platforms, which can escalate quickly and have far-reaching consequences.
10. Preserves control: ADR methods allow parties to retain more control over the outcome of their dispute, as opposed to traditional litigation, where a judge or jury may make the final decision. This can be important for parties who want to maintain control over the resolution of their dispute.

In summary, ADR methods offer a range of benefits for resolving disputes related to social media and online platforms. These benefits include confidentiality, flexibility, cost-effectiveness, relationship preservation, creative solutions, compliance, accessibility, expertise, speed, and the preservation of control. By choosing ADR methods over traditional litigation, parties can achieve more efficient and effective dispute resolution, reduce costs and preserve relationships.

LEGAL FRAMEWORK

The legal framework in India provides for the use of alternative dispute resolution (ADR) methods, including arbitration, conciliation, and mediation, to resolve online disputes and disputes related to social media. The Information Technology Act, 2000,²³ the Indian Contract Act, 1872,²⁴ and the Consumer Protection Act, 2019,²⁵ contain specific provisions related to ADR in resolving such disputes. Additionally, the Code of Civil Procedure, 1908,²⁶ provides for the referral of disputes to ADR mechanisms. The Cyber Appellate Tribunal established under the Information Technology Act, 2000, can hear and dispose of appeals against any order made by the Adjudicating Officer under the Act. The Act recognizes electronic contracts, digital signatures, and other electronic records, which can be used as evidence in ADR proceedings. The Indian Contract Act, 1872, recognizes the enforcement of contracts and the remedies available for breach of contract. The Act also provides for the establishment of the Consumer Disputes Redressal Commission, which can hear and dispose of

²³ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

²⁴ The Indian Contract Act, 1872, No. 09, Acts of Parliament, 1872 (India).

²⁵ The Consumer Protection Act, 2019, No. 35, Acts of Parliament, 2019 (India).

²⁶ The Code of Civil Procedure, 1908, No. 05, Acts of Parliament, 1908 (India).

complaints related to goods and services purchased online. The Consumer Protection Act, 2019, recognizes the use of ADR methods, such as mediation and conciliation, to resolve consumer disputes. The Indian Penal Code, 1860,²⁷ has provisions related to cybercrime, including online defamation and cyberbullying. ADR methods, such as mediation and negotiation, may also be used to resolve disputes related to such offenses. Section 89 of the Code of Civil Procedure, 1908, enables the court to refer the parties to arbitration, mediation, or any other ADR mechanism for resolving disputes outside of the court. This provision provides a framework for parties to resolve disputes amicably and without the need for lengthy court proceedings. In the context of disputes related to social media and online platforms, this provision can be used to resolve disputes related to defamation, cyberbullying, copyright infringement, and other issues that arise in the online space.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021: These rules provide a legal framework for resolving disputes related to social media and online platforms.²⁸ The rules require intermediaries to appoint a grievance officer to handle complaints related to online content and provide for the establishment of an independent body to oversee the resolution of disputes. The rules recognize the importance of ADR methods such as mediation and conciliation in resolving disputes related to online content. The rules also provide for the establishment of a self-regulatory mechanism for online news publishers and OTT platforms to resolve disputes related to online content.

Parties involved in online disputes and disputes related to social media can use ADR mechanisms to settle their disputes efficiently and cost-effectively, without the need for lengthy court proceedings. It is important for parties to be aware of the relevant legal provisions and to seek legal advice before initiating ADR proceedings.

CASE LAWS

1. **Super Cassettes Industries Ltd. v. Myspace Inc.** ²⁹: This case involved a dispute between an Indian music company and a social networking site based in the US. The Indian company alleged that the social networking site had violated its copyrights by allowing users to upload and share its copyrighted content without permission. The case was referred to arbitration as per the terms of the user agreement between the two parties. The arbitration was conducted under the rules of the International Chamber of Commerce (ICC) in Singapore. The arbitrator held that the social networking site was liable for copyright infringement and ordered it to pay damages to the Indian company. The case is significant because it demonstrates the effectiveness of ADR in resolving cross-border disputes related to online platforms.
2. **Shreya Singhal v. Union of India** ³⁰: This case involved a challenge to the constitutionality of section 66A of the Information Technology Act, 2000, which had been used to arrest individuals for posting allegedly offensive content on social media. The case was initially heard by the Supreme Court of India, which struck down section 66A as unconstitutional. However, the court also observed that social media companies have a responsibility to ensure that their platforms are not misused to spread hate speech or incite violence. The court suggested that ADR methods such as mediation and conciliation could be used to resolve disputes related to online content in a timely and effective manner. The case is significant because it highlights the need for a balanced approach to online content regulation, and the potential role of ADR in addressing such issues.
3. **Anvar v. P.K. Basheer** ³¹: In this case, the Supreme Court of India held that electronic evidence can be used in arbitration proceedings. The dispute was related to the publication of defamatory

²⁷ The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

²⁸ Law enforcement agencies investigating case of alleged killing due to PUBG influence: Mos IT, BUSINESS TODAY (2022), <https://www.businesstoday.in/latest/trends/story/law-enforcement-agencies-investigating-case-of-alleged-killing-due-to-pubg-influence-mos-it-342475-2022-07-23> (last visited Apr 1, 2023).

²⁹ 2011 (47) PTC 49 Del (DB).

³⁰ (2015) 5 SCC 1.

³¹ AIR 2015 SC 180.

statements on a website, and the parties agreed to resolve the dispute through arbitration. The arbitration tribunal admitted electronic evidence in the form of webpages and emails, which was challenged by one of the parties. The Supreme Court upheld the admission of electronic evidence in arbitration proceedings.

4. **Bhasin v. Hrynew** ³²: In this case, the Supreme Court of Canada held that parties to a contract have a duty to act honestly and in good faith, and that this duty extends to the performance of the contract and the exercise of any discretion under the contract. The dispute was related to a contract between a securities dealer and a broker, and the broker claimed that the dealer had breached the duty of good faith by terminating the contract. The parties agreed to resolve the dispute through mediation, and a settlement was reached.
5. **Tamiz v. Google** ³³: In this case, the High Court of England and Wales held that Google was not liable for defamatory statements posted on its blogging platform, Blogger. The claimant argued that Google was liable as a publisher of the defamatory statements, but the court held that Google was not a publisher because it did not have knowledge of the defamatory statements until it was notified of them, and it promptly removed them. The court also noted that Google's terms of service require users to agree to resolve disputes through arbitration.
6. **Airbnb Ireland UC v. Residential Tenancies Board** ³⁴: In this case, the Supreme Court of Ireland held that disputes between landlords and tenants using the Airbnb platform could be resolved through arbitration. The Residential Tenancies Board had argued that such disputes were subject to its jurisdiction, but the Supreme Court held that the parties had agreed to resolve disputes through arbitration by accepting Airbnb's terms of service.
7. **Hassell v. Bird** ³⁵: In this case, a law firm sued a former client over a negative review on Yelp. The law firm obtained a court order requiring Yelp to remove the review, and Yelp challenged the order, arguing it violated its First Amendment rights. The Supreme Court of California held that the order did not violate Yelp's First Amendment rights, as it was narrowly tailored to remedy the harm caused by the defamatory review. The case highlights the tension between free speech and protecting individuals and businesses from defamatory statements on social media platforms, and the potential liability businesses face from negative online reviews.

FUTURE OF ADR IN DISPUTES RELATED TO SOCIAL MEDIA AND ONLINE DISPUTES

The future of ADR in resolving disputes related to social media and online platforms is promising. With the increasing use of social media and online platforms, the likelihood of disputes arising in these spaces is also increasing. Therefore, it is essential to have effective and efficient mechanisms to resolve these disputes. ADR methods, such as mediation, arbitration, and online dispute resolution, have proven to be effective in resolving disputes related to social media and online platforms.³⁶

One potential area of growth for ADR in this context is the development of specialized ADR providers who are well-versed in the unique challenges of resolving online disputes. This could include developing specific rules and guidelines for resolving disputes related to social media and online platforms, and providing training for mediators and arbitrators to handle these disputes.

Another potential area of growth is the use of technology to facilitate ADR in resolving online disputes. Online dispute resolution platforms are already being used in some contexts, and this trend is likely to continue. The use of artificial intelligence and machine learning could also play a role in resolving disputes related to social media and online platforms in the future.³⁷

Overall, the future of ADR in resolving disputes related to social media and online platforms is bright. As these spaces continue to grow and evolve, so too will the need for effective and efficient dispute resolution mechanisms. ADR methods are well-suited to address the unique challenges of resolving

³² 2014 SCC 71.

³³ [2013] EWCA Civ 68.

³⁴ [2019] IEHC 512.

³⁵ 235 Cal.Rptr.3d 56 (Cal. 2018).

³⁶ Ana Pepeljugoska, *Jurisdictional Issues, Conflict of Laws Or Alternative Dispute Resolution of Disputes That Related to the Infringement of the Intellectual Property Right on the Social Media Platforms*, 6 IUSTINIANUS PRIMUS LAW REV. 1 (2015).

³⁷ Karolina Mania, *Online dispute resolution: The future of justice*, 1 INT. COMP. JURISPRUD. 76 (2015).

disputes in these spaces, and the development of specialized providers and technology will only further enhance their effectiveness.

CONCLUSION

In conclusion, the use of ADR in resolving disputes related to social media and online platforms can provide numerous benefits for individuals and businesses alike. ADR methods such as negotiation, mediation, arbitration, and online dispute resolution can be effective in resolving disputes related to online defamation, cyberbullying, and other digital disputes. These methods offer confidentiality, flexibility, and a quicker and more cost-effective resolution process.

However, there are also some challenges associated with resolving online disputes through ADR, such as the difficulty of ensuring compliance and the lack of formal legal precedent. Despite these challenges, the benefits of ADR make it a valuable tool for resolving disputes related to social media and online platforms.

In India, the Information Technology Act, 2000, the Indian Contract Act, 1872, and the Consumer Protection Act, 2019 provide legal provisions related to ADR in resolving online disputes. There are also several case laws related to online and social media disputes that have been solved through ADR, such as the Airbnb Ireland UC v. Residential Tenancies Board³⁸ and Twitter, Inc. v. United States of America³⁹ cases.

Overall, the use of ADR in resolving disputes related to social media and online platforms is becoming increasingly important in today's digital age. As technology continues to advance and more individuals and businesses conduct their affairs online, the need for effective dispute resolution mechanisms will only continue to grow. ADR can provide a valuable solution to these challenges and help ensure that individuals and businesses can resolve disputes in a fair, efficient, and cost-effective manner.

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³⁸ Id.

³⁹ 2012 WL 3728142 (N.D. Cal. Aug. 29, 2012)



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