

ONLINE DISPUTE RESOLUTION (ODR) A PART OF MANAGEMENT IN NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

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Abstract

Under the Legal Services Authorities Act, 1987, the National Legal Services Authority (NALSA) was established to provide free legal services to the poorer sectors of society and to arrange LokAdalats for the peaceful resolution of disputes. State Legal Services Authorities have been established in each state to carry out the NALSA's policies and orders, provide free legal services to the public, and hold LokAdalats. The State Legal Services Authority is led by the Hon'ble Chief Justice of the relevant High Court, who also serves as the Authority's Patron-in-Chief.

The main goal of NALSA is to provide free and competent legal services to the poorer sectors of society, as well as to ensure that no citizen is denied access to justice because of economic or other barriers, and to arrange LokAdalats for peaceful conflict resolution. It stipulates that those with yearly incomes of less than the sum prescribed by the respective State Government if the matter is before any court other than the Supreme Court, or less than Rs. 5 lakhs if the case is before the Supreme Court, are eligible for free legal assistance.

NALSA identifies specific categories of marginalized and excluded groups from the diverse population of the country and formulates various schemes for the implementation of preventive and strategic legal service programmes to be undertaken and implemented by the Legal Services Authorities at various levels with the goal of reaching out to the diverse milieu of people belonging to different socio-economic, cultural, and political backgrounds. NALSA works closely with the various State Legal Services Authorities to fulfil all of these obligations.

KEYWORDS: NALSA, Public, Conflict, Resolution, lokadalats.

INTRODUCTION

Online Dispute Resolution (ODR) is the use of digital technology and Alternative Dispute Resolution (ADR) approaches including arbitration, conciliation, and mediation to resolve conflicts, particularly in small and medium-sized cases. It is the practice of employing technology to avoid, contain, and resolve disputes outside of the traditional legal system. It is a type of dispute resolution that makes use of technology to make it easier for parties to resolve their differences. Efficient processes for resolving online disputes are thought to have an impact on the growth and progress of E-commerce.

Legal Aid Movement in India – Its Development and Present Status

The Article 39A of the Indian Constitution states that "the state shall ensure that the operation of the legal system promotes justice on a basis of equal opportunity," and that "the state shall provide free legal aid, by appropriate legislation or schemes or in any other manner, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability." Articles 14 and 22(1) further require the state to provide equality before the law and a judicial system that fosters justice on a level playing field for all. The first legal aid movement appears to have started in France in 1851 when a law was passed to provide legal assistance to the poor. In the United Kingdom, the history of the state's organised efforts to provide legal services to the poor and needy dates back to 1944, when Lord Chancellor Viscount Simon appointed the Rushcliffe Committee to investigate the facilities available in England and Wales for providing legal advice to the poor and to make recommendations as deemed desirable for ensuring that those in need of legal advice are provided by the state.

Since 1952, the Indian government has addressed the issue of legal aid for the underprivileged at a number of conferences of law ministers and law commissions. The government issued rules for legal aid schemes in 1960. Legal assistance plans were proposed by Legal Aid Boards, Societies, and Law Departments in several states. Under the Chairmanship of Hon. Mr. Justice P.N. Bhagwati, then a Judge of the Supreme Court of India, a national committee was formed in 1980 to oversee and regulate legal assistance programmes across the country. The Committee became

known as CILAS (Committee for the Implementation of Legal Aid Schemes) and began monitoring legal aid activities across the country.

"Legal Aid Counsel" Scheme, which has been highly appreciated throughout the country. In most of the country's Magistrates' Courts, Legal Aid Counsel has been assigned to give prompt legal help to those convicts who are unable to afford their own counsel.

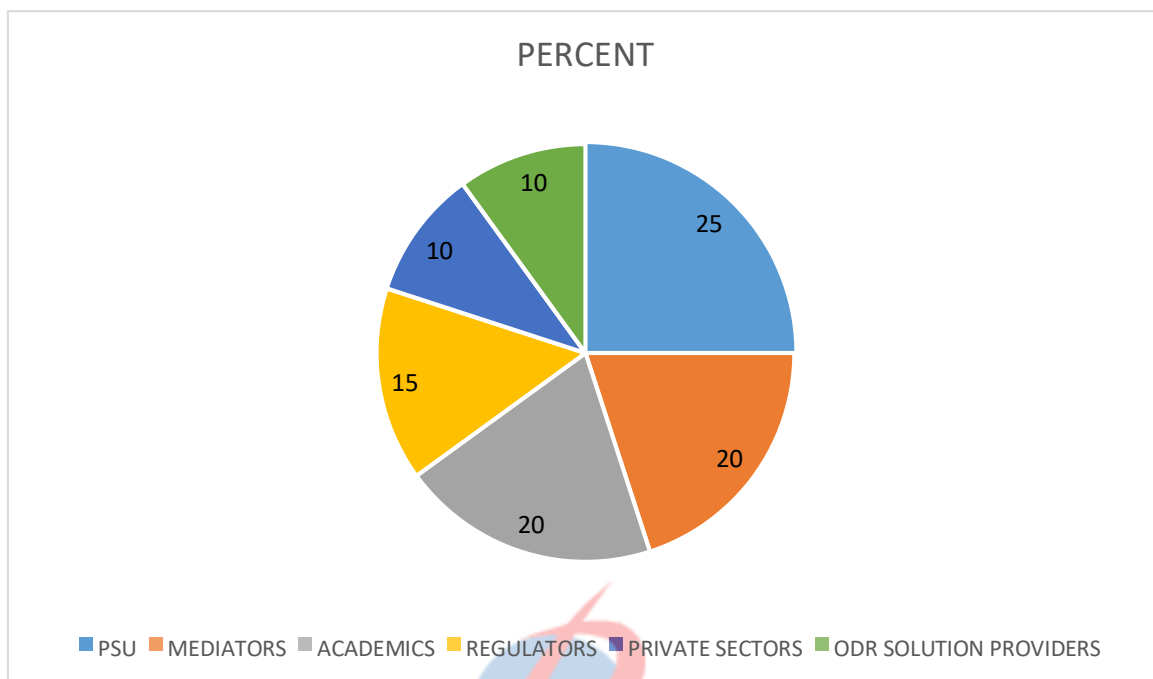
MISSION

To provide effective legal representation, legal literacy, and knowledge to society's marginalised and excluded groups, as well as to bridge the gap between legally available benefits and the entitled beneficiaries.

To improve the system of LokAdalats and other ADR procedures in order to provide for informal, quick, low-cost, and effective conflict resolution while reducing the burden of adjudication on the already overworked judiciary.

ONLINE DISPUTE RESOLUTION:

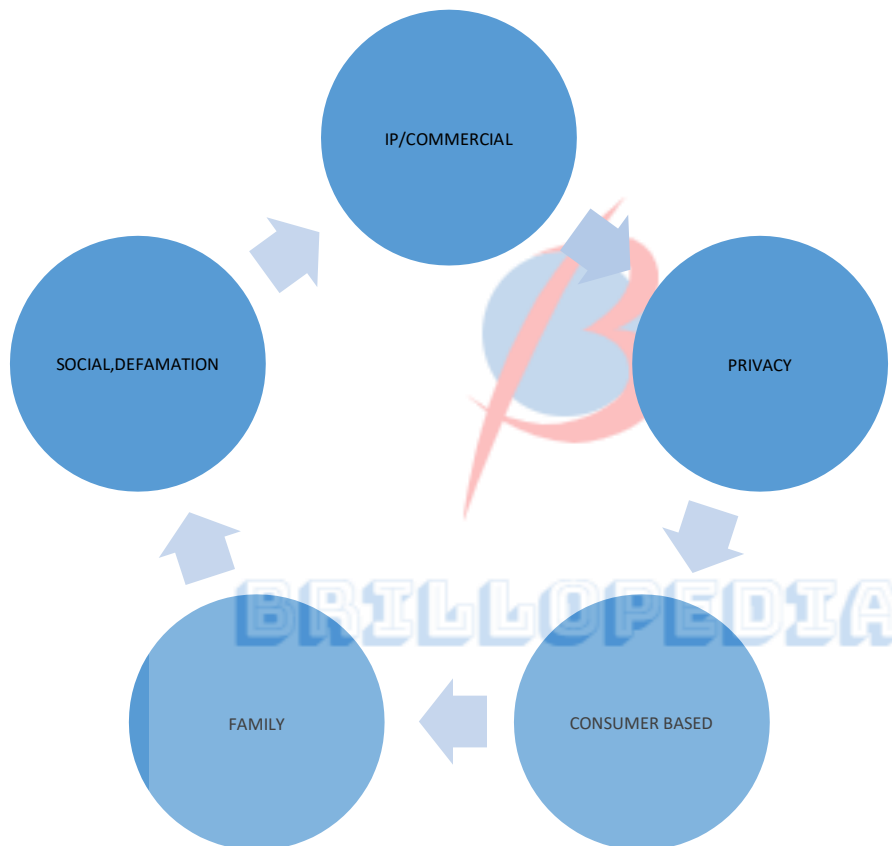
- ODR means ONLINE DISPUTE RESOLUTION, it is one of the best systems that we all got for public welfare.
- The main function of ODR isto solve the disputes between the parties using technological aspects and help the party to recover the loss.
- The parties have maximum control over the procedure. These parties can control the procedure by taking the regular follow-up.



Graph showing the use of ODR in different sections of the Indian Economy

- ODR helps people to manage their work along with the handling of cases, the person can take the regular follow-ups along with their regular routine.
- Nowadays, the concept of E-commerce is widely used, where ODR is always helpful as the main aspect of E-commerce is using technology.
- In normal circumstances, it is difficult to give an accurate definition of the ODR concept, but we can say that ODR is a complete technological system.
- Below mentioned table shows the methods of ODR:-

SR.NO.	Methods of Online Dispute Resolution
1	AUTOMATED NEGOTIATIONS
2	ASSISTED NEGOTIATIONS
3	EXPEDIENT NON-ADJUDICATIVE ONLINE RESOLUTION
4	CROWD JUSTICE
5	ADJUDICATIVE
6	THE UNIFORM DOMAIN NAMES DISPUTE RESOLUTION POLICY

THE NATURE OF E-DISPUTES**POSITIVE ASPECTS OF ODR**

- IN ODR, not only E-disputes are resolved online but traditional disputes such as commercial or social disputes are capable of being resolved by the use of technology.
- Various communication devices that are used to successfully complete the ODR are mentioned in below table:

SR.NO.	NAME OF THE DEVICE
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1	CAMERA
2	FAX
3	MOBILE PHONES
4	COMPUTERS
5	SCANNERS
6	WEBCAM
7	IPODS

There are three terms which determine the essence of the Online Dispute Resolution:

- **CONVENIENCE**
- **TRUST**
- **EXPERTISE**
- There are some important factors of Onlinedisputeresolution:

AFFORDABILITY
ACCESSIBILITY
SECURE
FLEXIBILITY
ENFORCEABLE
TRANSPARENCY

BELOW MENTIONED TABLE INDICATES THE DIFFERENCE BETWEEN THE ODR AND PHYSICAL LITIGATION.

SR. NO	ONLINE DISPUTE RESOLUTION	PHYSICAL LITIGATION
1.	In ODR, we can get the status of our	In physical litigation, we have to take

	petition.	follow-up regularly.
2..	Here, we can get notifications on the website itself.	Here, notice is directly sent to the appellant's registered address.
3..	The chances of biasness are very low.	The chances of biases are high.
4.	Bribe cannot be given to anyone.	Bribe can be given at any point of time.
5.	The dispute is solved with the use of technology.	The dispute is solved with the traditional method.
6.	We can get an accurate judgement.	There are some chances that the judgement may vary.

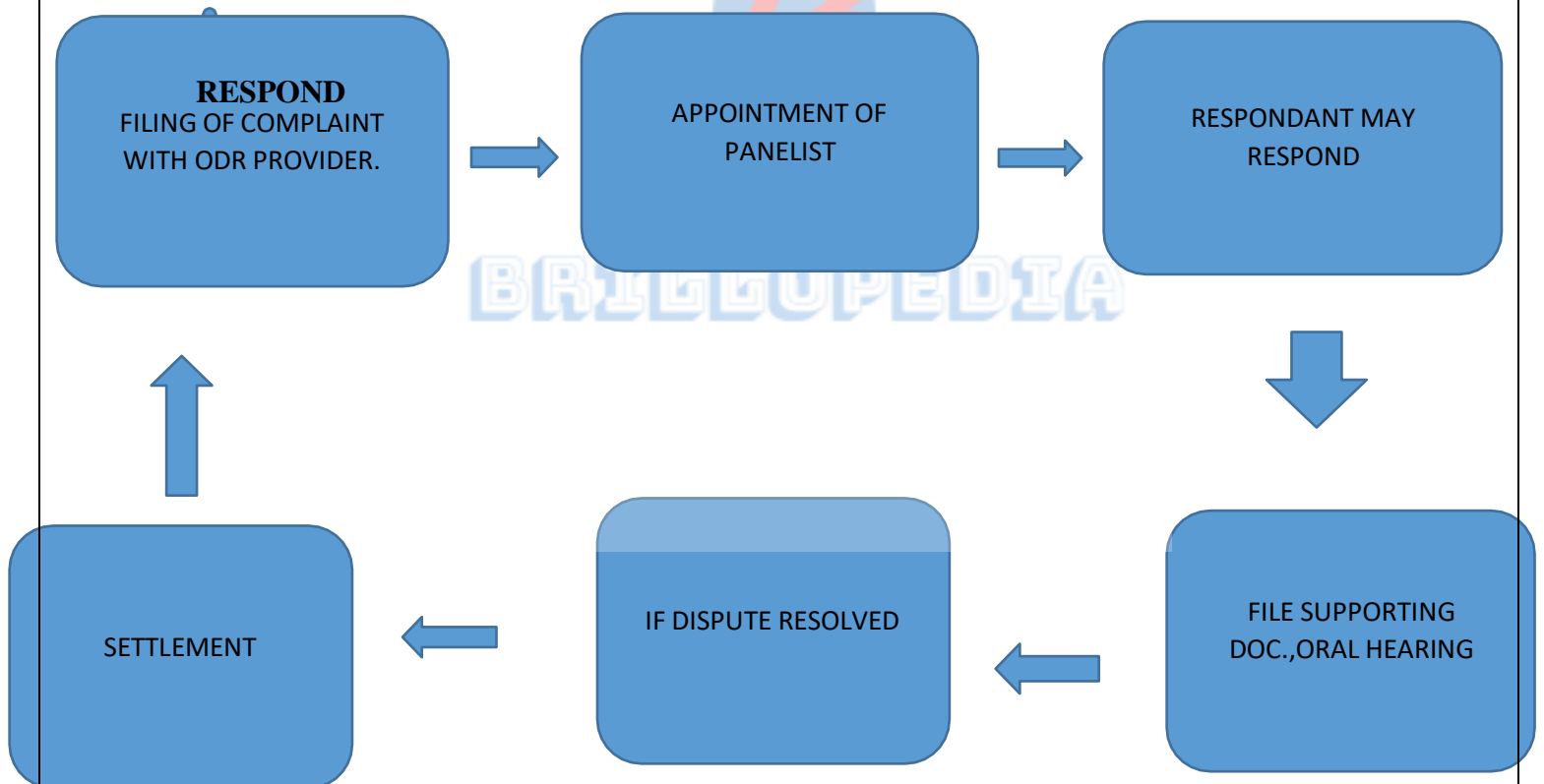
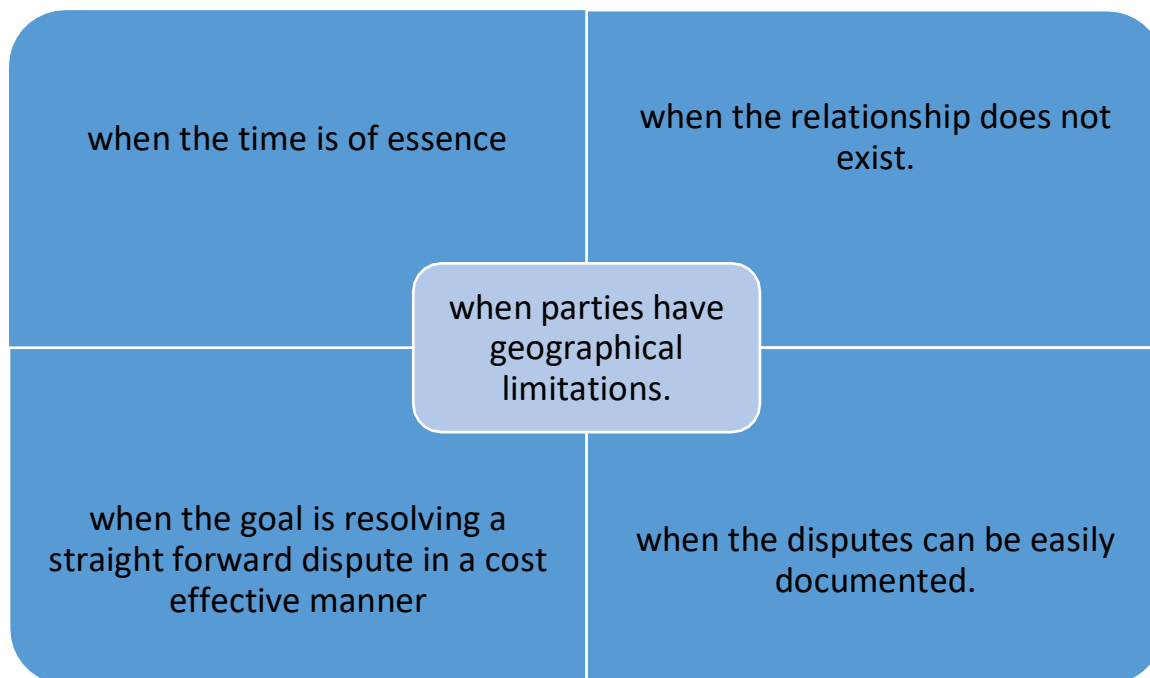


Chart showing the Process of Online Dispute Resolution System

Below table shows the Techniques of ODR:

TECHNIQUES OF ONLINE DISPUTE RESOLUTIONS
1. E-MEDIATION
2. E-CONCILIATION
3. E-ARBITRATION
4. E-MINITRIAL
5. E-NEGOTIATION
6. RENT A JUDGE
7. OTHER HYBRID TECHNIQUES LIKE MADARB AND MEDOLA
8. NEUTRAL LISTENER
9. FINAL OFFER ARBITRATION.

The figure below denotes the situations where the ODR method is highly recommended



- The below stated table describes the benefits of the ODR method.

MULTIPLE BENEFITS OF ONLINE DISPUTE RESOLUTION METHOD
Inexpensive: Saves money on travel, attorney, and court costs.
Time saving
Parties have more control and flexibility.
Private
Reduces workload of the judicial system.
Voluntary-need not to submit the laws of another country for dispute resolution.
Can overcome language and cultural differences.
Reduces acrimony
Enforceable by agreement e.g. mediation, arbitral award.

- Various methods are followed by various countries and ODR are also different so we will learn about the different systems in different countries.

- **NETHERLANDS:** The electronic commerce platform is a joint initiative of the business community and the Dutch Ministry of economic affairs that drafted the code of conduct for electronic commerce.
- **SINGAPORE:** ADR was launched which is jointly operated and supervised by Singapore subordinate courts, ministry of law, Singapore Mediation Centre, the Trade Development Board and Economic Development Board to resolve E-commerce disputes.
- **E-COURTS OF INDIA:** These courts also aim to promote ODR and deal with litigation and court based ODR using online resources and the Central Bureau of Investigation is in the process of establishing E-courts.

INDIAN LEGAL FRAMEWORK AND ONLINE DISPUTE RESOLUTION METHOD:

- The Indian Legal System works under many bad and good circumstances. The framework we got is made after taking all the circumstances into consideration.
- Many acts have been made after taking the technological aspects and circumstances into consideration.
- Below mentioned table helps us to understand the Indian Legal Framework and ODR:

INDIAN LEGAL FRAMEWORK AND ONLINE DISPUTE RESOLUTION.
1. Information Technology Act, 2000 based on the UNCITRAL Model view of E-commerce, 1996.
2. Section 4 - Legal recognition of electronic records.
3. Section 5 - Legal recognition of electronic signatures.
4. Section 10A - Validity of contracts formed through electronic means.
5. Section 11-13; Attribution, Acknowledgement and Dispatch of electronic records.
6. SECTION 14 - Secure electronic record.
7. SECTION 15 - Secure electronic signatures.
8. Chapter 9 of Cyber Contraventions and Chapter 11 on Offences.

9. Section 72 A - Punishment for disclosure of information in breach of lawful contract.

We can also include the other supporting legislations which are mentioned below

- Indian Evidence Act, 1872- Section 65A&B - Admissibility of electronic records.
- Indian Arbitration Act, 1996 - Act permits an arbitral tribunal to use mediation, conciliation or other procedures during the arbitration proceedings to encourage settlements of disputes.
- Section 89 of code of civil procedure code, 1908 promotes ADR, order X rule 1A.
- Legal precedents encouraging ODR - State of Maharashtra Vs.Dr.Praful.B. Desai, Grid Corporation of Orissa Ltd. Vs. AES Corporation.
- Some points to remember when using ODR.

Below mentioned points are planned to under the system of the ODR

- WE NEED TO UNDERSTAND THAT WHAT KIND OF THE DISPUTES CAN BE SOLVED BY THE METHOD OF ONLINE DISPUTE RESOLUTION METHOD.
- HOW MUCH INFORMATION CAN PARTIES SUBMIT ?
- SHOULD AUDIO/VIDEO/DOCUMENTARY ATTACHMENTS BE ALLOWED?
- PROCEDURE AND TIME FRAME FOR APPOINTMENT OF NEUTRAL JUDGES/PANELISTS AND DECISION MAKING.
- CAN A PARTY ACCESS UPDATED STATUS OF THE CASE?
- SHOULD EACH PARTY GET THE OPPORTUNITY TO REBOOT?
- HOW IS PAYMENT PROCESSING HANDLED ?
- WHAT IS THE REASONABLE NUMBER OF THE ATTEMPTS TO CONTACT THE RESPONDENT.
- ENFORCEABILITY OF SETTLEMENTS AND DECISIONS ARRIVED AT DURING DISPUTE RESOLUTION.
- EVERY SYSTEM IS INCOMPLETE WITHOUT SUPPORT OF TWO MAIN ASPECTS WHICH ARE MENTIONED BELOW:
- GOVERNMENT

- PUBLIC.
- So, for the public , one of the main aspects is ‘SELF-REGULATION’.
- SELF REGULATION in simple language is called ‘SELF-CONTROL’.
- So now we will understand the self regulation versus government role in terms of ODR.
- SCHULTZ was of the opinion that the government's role is more important as compared to the self regulation approach.
- Accreditation -symbolic capital-authenticity,credibility.
- Financial aid.
- Supervision
- Provision of appeal for accountability.
- In the U.S.A, Australia, New-Zealand, Singapore, Canada,U.K., special funding is being granted by the government to initiate ODR projects.
- I would advocate the Public-Private partnership model.
- There are some things which are identified in ODR in the self regulation is:
- Self Regulation uses the trust seals certification. It also consists of the imprinted date, name, authentication mark, dynamically sealed listing on the website.
- The trusted seals pictures are attached in the next page which can clear the concept more accurately.
- The below attached pictures denote the trusted seals which are used by the seller to authenticate and to use at the time of any dispute.
- The above mentioned pictures are the examples of the trusted seals of the companies. These seals are used to authenticate the company and can be used as a proof in case of any dispute.
- Now there are many challenges that are faced by the ODR
- Some of the challenges that are faced by the ODR are mentioned below:
- Requirement of consent of both the parties.
- Legal recognition of the ODR clause-B2C contracts-EU view.
- Maintaining standards and quality.
- Accountability and impartiality of neutrals and arbitrators.
- Confidentiality of information gathered during the arbitration process.

- Lack of homogenous cyber laws- core principles same- UNCITRAL model of law of e-commerce.
- Will national courts recognize awards rendered online?
- For the purposes of the statutes and treaties such as the New York Convention ,where will an online arbitration take place, and where will the award have been made?
- How does one ensure the authenticity of and integrity of the documents, electronically.
- Lack of personal interaction may reduce chances of settlements. For this explanation GOFFMAN AND FACE theory is an option.
- Differences in languages and culture.
- As we all know that the HURDLES AND SOLUTIONS are the two sides of the same coin.
- So we have learnt that the hurdles are there in the pathway of using the ODR.
- So, now it's the time to get to know about the solutions of the ONLINE DISPUTE RESOLUTION:
- Need for an ODR analogous to *lexmercatoria*.
- In the European Union, the e-commerce directive, provides in article 17 that in case of an e-dispute, the member states are required to ensure that the parties are not hindered using ADR process for disputes resolution including appropriate electronic means'. Some harmonization is in place – UNCITRAL Model law on e-commerce and electronic signatures.
- **USE OF ENCRYPTION AND OTHER SECURITY TOOLS:** the electronic courthouse uses multiple security layers including sophisticated servers, complex password, and software which backs up the complete data of its servers and stores information submitted by the parties in a protected manner and environment. Such technical infrastructures are required to alleviate any concerns of a breach of privacy, confidentiality in the ODR process.
- Many paralegal rights such as money back guarantees and buyer protection clauses and authentication seals are becoming popular on most E-commerce websites to generate trust.
- ODR PROCESS reduces the acrimony that gives us no advantage if personal interactions are not here to overcome the differences in language and culture through translators.

- Many recommendations are there in the IT sector which are directly or indirectly connected to the ODR PROCESS.
- SO NOW WE WILL SEE IT AND ONLINE DISPUTE RESOLUTION-RECOMMENDATIONS.
- THE BELOW MENTIONED GROUP OF SENTENCES DENOTES THE RECOMMENDATIONS OF THE IT AND ONLINE DISPUTES RESOLUTIONS PROCESS.
- Nature of the virtual world of cyberspace- devoid of physical boundaries.
- Improvisation and extension of ODRprocess system applications new subject areas worldwide.
- Online international court of justice for e-disputes – need for the political reconciliation between main trading blocks.
- Organization or system of law to regulate e-disputes through uniform means e.g. ICANN policy for domain name disputes till uniform ODR law is achieved.
- IT enabled DR should be introduced in all models, legislative texts, national laws as an internationally accepted uniform method of disputes resolution.
- ODR is far away from India so the enforcement of this system will obviously take time. So , to overcome thesechallenges it is must for all to get nearer and nearer to it and to use it in day to day life.