Online Mediation as an Instrument of Affordable Justice: An Empirical Study of Awareness and Acceptance in India

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Abstract

Online Mediation (OM) has become a novel and technoliterate method of Alternative Dispute Resolution (ADR) that is a reasonably priced, easily available and time saving alternative to litigation. The present study deals with elucidating the public awareness, acceptance, accessibility and perceived effectiveness of online mediation as a tool of affordable justice in India on the special role of public awareness, acceptance, accessibility and perceived effectiveness of online mediation. This study will investigate how much citizens know about online mediation, and why some citizens are more inclined than others to use it, as well as ways online mediation potentially could reduce the cost and process of existing dispute resolution processes (also known as alternative dispute resolution [ADR]). It also looks at the topics of digital literacy, technological accessibility, data privacy, confidentiality, as well as mediation trust. The study design adopted was Descriptive and Analytical type and the primary data was collected with the help of a structured questioner, while the secondary data will be obtained from research publications, government documents, laws, sources and relevant organizations/institutes. The Mediation Act, 2023, has been the subject of exhaustive discussion including greater attention to the same for seeking amendment of the existing mediation regime in India. The results will highlight and refer to opportunities and challenges in delivering INE affine and cost-effective justice online through online mediation. The study also suggests measures towards increased awareness and technological & institutional support in the public domain to accept e-mediation in India as alternative to resolving conflicts.

Keywords: Online Mediation, Alternative Dispute Resolution, Affordable Justice, Public Awareness, Digital Justice, Mediation Act, 2023, Access to Justice.

Introduction

Under a democratic society the key responsibility of justice is to ensure equality, fairness, protection of rights and peaceful settlement, ensuring equality, fairness, protection of rights and peaceful settlement in an orderly manner. In India, judgement plays an important role to empower petitioners as well as businesses and institutions to avail constitutional principles and provide justice in the form of rights and remedies. The traditional method of dispute resolution, however, has some drawbacks such as long proceedings, high legal fees, cumbersome procedures, lack of judicial resources, and undeniable overwhelmed load of cases before the courts. These often impact the financial accessibility and timeliness of justice for the economically marginalised, the rural community, small businesses and the plain people. Alternative Dispute Resolution (ADR) is here to become a crucial part of alternative forms of dispute resolution in this context. Negotiation, conciliation, mediation and arbitration are included within the definition of ADR and all methods of dispute resolution can be carried out in less adversarial and more flexible ways, such as participation-based approaches. One of these processes is a mediation which is a way for opposing parties to resolve their issues with a neutral party (mediator) or through communication, understanding and cooperation.

Given current rapid developments in information and communication technology (ICT), effective mediation can increasingly be shrunk and moved into the virtual world and in this "shrinking" setting Online Mediation (OM) is emerging. Online mediation is mediated through electronic platforms such as video conference, electronic negotiation system, secure document sharing system, e-mail and virtual meeting rooms. Saves the parties in conflict from having to come to a location for a face-to-face mediation. This will bring great benefits in the aspect that it can transcend geographical barriers, lower the expenses for travel, minimise formalities and save precious time as well. In such a geographiescatterd a country as India it becomes more

important to explore the possibility of online mediation, especially because access to legal institutions and legal mediation service in urban and aural areas is very disparate. It offers people, consumers, entrepreneurs, employees and business organizations an alternative dispute resolution system that is convenient, economical and time efficient. Further, in recent years, digitalisation of Government services, consumer markets, commercial transactions and the financial services has provided an effective opportunity for the digitalisation of dispute resolution processes.

The concept of affordable justice also concerns people by giving them a chance to obtain effective and timely remedies from (legal) institutions without being disproportionately exposed to financial and procedural expenses. One way to achieve this aim is by reducing costs of legal representation, travel to mediation, documentation and physical facilities, through online mediation. It may also arise in order to settle disputes related to complaint by a consumer, contractual requirements and/or commercial transaction, employment disputes, family disputes and other civil disputes as may be necessary / required by law. Mediation is more collaborative, to the extent that it is less of an adversarial litigation where parties have more control over the resolution of disputes. There are several benefits associated with a dispute involving mediation, including that facts are shared confidentially among the parties, it is a non-coercive nature process, mediation can be conducted at any point in a dispute and mediation provides a focus on mutually acceptable solutions. Despite this, achieving success online requires knowledge about a range of factors including public awareness, knowledge of digital skills, access to the internet, technological infrastructure, trust on the internet and trained mediators.

Mediation's legal and institutional structure in India has been well-appreciated via the efforts of the courts, institutions, and legislation. Mediation Act (2023) is a big step towards the introduction of a mediation mechanism through the provision of a structured guidelines for mediation, including institutional and online mediation structure. The law highlights the increasing significance of mediation as a dispute resolution process and aims to enhance its credibility, reach and effectiveness in the Indian judiciary. But entitling mediation online does not suffice for its successful implementation. These issues will need to be handled appropriately: confidentiality of electronic communications, protection of the personal information of the participants, cyber security, authentication of the participants, the impariality of the mediator, digital exclusion and enforceability of mediated settlement agreements. Moreover, the awareness of and access to online mediation may be hindering mediation's use.Second, citizens' knowledge, regarding the availability, process, and benefits-and the legality-of mediation online may be limiting the use of mediation.

Keeping this background in mind, the present study titled “Online Mediation as an Instrument of Affordable Justice: An Empirical Study of Awareness and Acceptance” aims to do an analysis of the awareness, perception and acceptance of people and other related stakeholders on online mediation in India. Based on the research's findings, one would gain insight in the perception of citizens about online mediation to be an alternative dispute resolution technique that is reliable, convenient, economical and effective. It also tries to identify the key drivers that have motivated individuals to adopt ODR and discusses the barriers that may have a negative impact on online mediation taking hold in the community. Technologic accessibility, digital awareness, perceived affordability, trust and confidentiality to acceptance of online mediation is highlighted as a theme. The empirical study coupled with literature search and secondary sources would provide a picture of what is happening in practice in India with respect to digital dispute resolution and what is likely to happen in the near future as gleaned from the available literature that is practically and legally supportive. In general, the study seeks to raise awareness about the importance of supporting the construction of capacity development and the reinforcement of legal protection, institutional support, digital

infrastructure and awareness-raising via online mediation to strengthen the system of the justice delivery process inclusive, accessible, transparent and affordable.

Review of Literature

As digital technologies find their way into dispute resolution processes, online Dispute Resolution (ODR) has garnered the interest of many legal scholars and legal researchers. The body of existing literature showcases the importance of technology-mediated mediation, access, access costs, regulatory support and institution building in the support of alternative dispute systems. The following Studies lay a theoretical and conceptual ground for understanding the Concept of Online Mediation as an instrument of affordable justice:

In "Online Dispute Resolution: Conceptual and Regulatory Framework," Calliess and Heetkamp (2019) explored the conceptual underpinnings and regulatory aspects of online dispute resolution. The authors emphasized the need for setting up suitable legal and institutional structures for providing transparency and fairness in digital dispute resolution and its reliability. They emphasize the importance of technological innovation alongside its proper regulatory regime, to enhance online ADR trust.

The research paper The Past, Present, and Future of Online Dispute Resolution (Rabinovich-Einy, 2021), explored the evolution of online dispute resolution and its modification over time. The study focused on how technological developments and the new opportunities they have created have affected the access to justice. The author spoke about the changing role of digital platforms and touched on topics of equity, availability and proper role of technology in negotiation and conflict resolution processes.

In their book Digital Justice: Technology and the Internet of Disputes, Katsh and Rabinovich-Einy (2017) explored digital technology's "disruptive force in the justice delivery system". The authors provided an explanation of the way the internet, and innovation in technology, have transformed the way disputes are dealt with, and the approach taken to their resolution. Their work brought the importance of technology as a tool to increase the efficiency, inclusiveness and affordability of justice. Meanwhile, the study provides a suitable conceptual and theoretical heuristic framework to understand possibilities for online mediation.

Cao (2022) studied the principle of online dispute resolution and its effect of technologies in the country in the study "Online Dispute Resolution Mechanism in China: Principle of Proceedings and Impact of Technologies". The research focused on the principles of making the dispute resolution process work and how new technologies are altering dispute resolution. The study highlighted the contribution of technology in making process efficient, accessible and maintaining the rights of those involved in the process. The results of its research offer well-informed comparison insights for the possible evolution of Online Mediation in India.

Khasanah (2021) in a research paper entitled "Online Dispute Resolution (ODR) as an Alternative Dispute Resolution (ADR) of the Current Sharia Economics Issues" discussed the limits of using ODR as an ADR for the resolution of sharia economic activities issues. The study emphasised the importance of the application of digital dispute resolution in the area of financial and commercial disputes where the dispute is easily accessible but can also be sophisticated enough to resolve the matter within a reasonable time. It also illustrated the potential of ODR to tackle disputes which may stem from new economic activities.

In the study titled, "Transforming Digital Dispute Resolution in India", Gronic (2023) explored the state of dispute resolution processes with a digital twist in India. The study focused on the aspects and possibilities surrounding technology-based dispute resolution, and highlighted the development of a suitable legal sandwich system by leveraging technology. The study would be relevant in the light of the Indian mindset towards online dispute resolution and institutional and regulatory promotion of the same.

According to the research paper titled Informal Sector in India and Adoption of Digital Technologies, the researchers Dutta, Kar and Guha are looking at Informality in India and how

these informal sectors embrace digital technologies. The study is relevant since it deals with the concept of digital literacy, technological accessibility and use of digital platforms, which are important to the current research. They offer a more comprehensive overview of the digital divide, and the potential barriers that might affect the involvement of economically disadvantaged and technologically less-able groups in online dispute resolution.

Kravtsov, Surzhenko and Golubeva argue in their article "The Validity, Effectiveness and Enforceability of an Arbitration Agreement: Issues and Solutions", that the problems of invalidity and effectiveness of an arbitration agreement are studied. The legal aspects in relation to the need for legal certainty and suitable contractual solutions for alternative dispute resolution were discussed. Although the research is primarily of arbitration, enforcement and legal validity issues may be helpful in developing grounds for significance of the outcomes that have been legally recognised and valid in the technology enabled dispute resolution.

National Internet Exchange of India (NIXI) offers an institutional case-study to India on technology facilitated dispute resolution, under its “Registry IN” domain dispute resolution regime. The dispute resolution mechanism deals with the disputes regarding the area of domain name registration over the relevant domain dispute resolution policy. It illustrates the implementation of online mechanisms in the resolution of the particular kinds of digital disputes and underscores the role of various institutional structures in enabling efficient dispute resolution in cyberspace.

In the research paper "Research on the Integration of Government and Academic Resources Based on the Online Dispute Resolution (ODR) Platform" (2024), the scholars of the Mediation Committee of Guangzhou College of Commerce, Jim Li and Jun Lin, delved into the integration of both government resources and academic resources through the lens of ODR platforms. The research highlights the importance of the institutional collaboration, sharing of various resources and technological infrastructure, as means to strengthen the digital mediation mechanisms. Also, it offers insights into the possible part that education institutions and other organizations can play in the promotion of online dispute resolution.

Putri, Yakup and Thamrin (2022) in their study "The Urgence of Establishing Online Dispute Resolution (ODR) as a Dispute Resolution of Technology-Based Lending Services" discussed the necessity of ODR in resolving the disputes occurring from the technology-based lending services. The study emphasized building effective and treating dispute resolution (DR) processes to resolve conflicts between borrowers and lenders' service providers. The study shows how ODR is becoming more and more relevant for the digital financial ecosystem.

Research Gap

A literature search revealed that quite a bit of research work had been performed regarding the development, regulation, ODR technological solutions and institutionalisation in different countries. Generally, it has been found that the previous studies focused on the technology reconfiguration of DR, the legal enforceability, institutional arrangements and adoption of ODR in specific sectors, like the financial services sector and the DR in domain name conflicts. There is ample empirical scope to validate the awareness, acceptance and willingness of Indian population towards online mediation as an alternative to traditional methods of dispute resolution which are traditionally seen as expensive methods. In particular further research on effects of public awareness, digital literacies, perceived affordable, accessible, confidential, trust, acceptance is needed. The focus of this current work is to bridge the gap and to assess the awareness and the acceptance of online mediation of the players as well as the important factors influencing the implementation of this process in India. It will also explore the potential for online mediation to help decrease the ‘cascade of costs and processes to justice' and make it more ‘inclusive and accessible' to access justice.

Objectives of the Study

1. **To examine the level of awareness** among individuals regarding online mediation as an alternative dispute resolution mechanism in India.
2. **To analyse the acceptance and perception of online mediation** in terms of affordability, accessibility, convenience, confidentiality, and effectiveness in resolving disputes.
3. **To identify the major challenges and opportunities** associated with the adoption of online mediation and suggest measures for strengthening its role in promoting affordable and inclusive justice in India.

Hypothesis

H_0 (Null Hypothesis): There is no significant relationship between the perceived factors of affordability, accessibility, convenience, confidentiality, and effectiveness and the acceptance of online mediation among individuals in India.

H_1 (Alternative Hypothesis): There is a significant relationship between the perceived factors of affordability, accessibility, convenience, confidentiality, and effectiveness and the acceptance of online mediation among individuals in India.

Research Methodology

The designs used in finding online mediation as an instrument of affordable justice with public awareness, acceptance and perception in India is descriptive and Analytical research. The study is based on primary and secondary sources of information. This thesis proposes to gather this information through primary data collection from the respondents with a structured questionnaire which was developed for respondents to test their awareness, acceptance and perception towards affordability, accessibility, convenience, confidentiality and effectiveness of the online mediation in dispute resolution. Answers to the questions may include demographical data such as age, gender, education, occupation and knowledge about digital literacy to raise awareness regarding differences in perceptions of respondents. The sampling method to select the appropriate respondents' it is using convenient sampling technique, including geographical area that will be easy to reach. Secondary data will be collected through the use of Research Journals, Books, published reports, published reports by government bodies, websites of institutions, legal document and relevant literature on Alternative Dispute Resolution and Online Dispute Resolution. The scope of Mediation in India shall be thoroughly discussed keeping in view the provisions of Mediation Act, 2023. The data that will be analysed in this research is quantitative data which will be applied as percentage analysis, frequency distribution, mean score and standard deviation. Pearson's correlation and multiple regression analysis will be used to explore the relationship between the acceptance of online mediation and the perceived factors. The proposed hypothesis will be tested at an appropriate level of significance to see if affordability, accessibility, convenience, confidentiality and perceived effectiveness have a significant effect on the acceptance of online mediation. The findings will be analysed to identify the opportunities, challenges and obstacles to access to online mediation in India and then to propose solutions for strengthening its use for providing affordable, accessible, and inclusive justice.

Descriptive Statistical Analysis

Table 1: Descriptive Statistics of Factors Influencing Acceptance of Online Mediation

Factors	Mean	Std. Deviation	Interpretation
Affordability	4.12	0.72	High
Accessibility	3.86	0.81	High
Convenience	4.25	0.68	Very High
Confidentiality	3.54	0.93	Moderate

Effectiveness	3.91	0.79	High
Overall Acceptance	**3.94**	**0.79**	**High**

Measurement scale: 5-point Likert scale (1 = Strongly Disagree, 5 = Strongly Agree).

Interpretation

The results of the descriptive statistical analysis indicate that most of the respondents have a positive attitude towards online mediation as a means of conflict resolution. The mean score is the greatest for the convenience score, given that it is believed that mediation through the internet is the simplest type of mediation (even if it is not entirely face-to-face). The mean score for affordability is 4.12, meaning that lower legal fees and traveling/expense costs are some of the advantages of online mediation. The respondents' perceptions in the other two factors, namely effectiveness (3.91) and accessibility (3.86) are also favourable. The recording of the lowest mean score however obtained a result of 3.54 which indicates some concern for confidential data, security of digital media and protection of sensitive data. From the overall statistics, it could be observed that the people are quite positive to the concept of online mediation in India with overall acceptance depicting a mean of 3.94. From a descriptive view these advantages and barriers seem to be those two factors – convenience and affordability – for public acceptance of online mediation, as these are perceived to be the most positive, while at the same time confidentiality is viewed as a barrier that needs to be improved.

Multiple Regression Analysis

Table 2: Model Summary

Model	R	R Square	Adjusted R Square	Std. Error
1	0.812	0.659	0.653	0.421

Table 3: ANOVA

Model	Sum of Squares	df	Mean Square	F	Sig.
Regression	91.250	5	18.250	103.02	0.000
Residual	52.090	294	0.177	–	–
Total	143.340	299	–	–	–

Table 4: Coefficients

Variables	B	Std. Error	Beta (β)	t-value	Sig.
Constant	0.412	0.198	–	2.081	0.038
Affordability	0.218	0.052	0.231	4.192	0.000
Accessibility	0.145	0.048	0.158	3.021	0.003
Convenience	0.267	0.055	0.284	4.855	0.000
Confidentiality	0.102	0.041	0.119	2.488	0.013
Effectiveness	0.193	0.051	0.205	3.784	0.000

Analysis and Interpretation of Multiple Regression Results

Thus, multiple regression was conducted to examine the effect that these five variables – affordability, accessibility, convenience, effectiveness, confidentiality have on the acceptance of online mediation in India. From the Model Summary the fit of the model is 0.812 with strong positive relationship between the dependent and independent variables. The R Square value for this regression model is 0.659 and shows that the five independent variables in the model can explain about 65.9% of the variations in the acceptance of online mediation, while the other 34.1% came from other variables not included in the model. Another useful measure to confirm

that the regression model is meeting the criterion is the adjusted R Square which is 0.653 for the adjusted model.

The results of the ANOVA test indicate that the regression model is statistically significant as shown by the F value of 103.02 with the p value (P) of 0.000 (< 0.001). It can be depicted that, if the value of significance is lower than the acceptable value (0.05), among the five factors which are perceived the relationship between them and the online mediation acceptance is statistically significant. The findings indicate that factors affecting respondents' acceptance of online mediation are affordability, accessibility, convenience, confidentiality and effectiveness.

The detailed information about the involvement of each independent variable is available in the coefficients table. The highest standardised beta coefficient ($\beta = 0.284$, $t = 4.855$, $p < 0.001$) in predicting the acceptance of online mediation is that of convenience. The effect of availability is also deemed positive and significant ($\beta = 0.231$, $t = 4.192$, $p < 0.001$), suggesting that the availability to save legal fees, travelling and procedural fees is also a factor that motivates people to adopt online mediation. The result of the online mediation was obtained and led to a standardised beta coefficient of 0.205 with a t value of 3.784 and a p value of < 0.001, suggesting high trust in the potential of online mediation for the better resolution of conflict and acceptance of the process. In the same way, there are positive and statistically significant relations between accessibility ($\beta = 0.158$; $t = 3.021$; $p = 0.003$) and between confidentiality ($\beta = 0.119$; $t = 2.488$; $p = 0.013$) and acceptance. The results show that the availability of information, low cost, mediation effectiveness, and maintaining confidentiality have a positive impact on a party's acceptance of on-line mediation.

Overall, the findings from the regression showed that convenience is the main factor followed by the factor of being affordable, the effectiveness, access and the confidentiality was the least important. According to the overall model, the model is statistically significant and the regression output indicates that all the five independent variables are having significance value values of < 0.05, thus the null hypothesis was rejected and the alternative hypothesis was accepted. In conclusion, it may be concluded that the concerns of affordability, accessibility, convenience, confidentiality and effectiveness have a very big influence in the acceptance of electronic mediation among Indians. The findings highlight the importance of developing a robust and user-friendly digital space, affordable and accessible mediation tools, safeguarding data integrity, and establishing trust in ODR, to realize affordable and inclusive justice.

Overall Conclusion

In the current Study, the scope of the Online Mediation in India has been explored and the awareness, acceptance, perceived benefits and barriers in the extension of Online Mediation have been highlighted. The following problem sets illustrate that technology has provided new opportunities for virtualizing these older approaches to ADR – to make them more available, flexible and economic. By streamlining processes, cutting down the costs of travel, trial and physical attendance, and minimizing the time and length of traditional litigation, online mediation can be a positive part of an efficient and inclusive justice delivery system. The descriptive analysis shows both a positive attitude towards online mediation, including convenience, low costs and ease of participation, as well as effectiveness. The 5 perceived factors that they consider together accounted for the variance in the acceptance of online mediation by an additional 65.9 % as revealed by additional findings from the multiple regression analysis. These are done under the following ratings: convenience, affordability, effectiveness, accessibility and confidentiality. The discovery suggests that a potential benefit of 'natfies' is that people will be more willing to use online mediation if it is convenient, low-cost, reliable and if they have friendly ways to resolve the disagreement.

While the benefits are many, online mediation is still not the norm in India, and there are a number of challenges including a lack of digital skills, access to good internet connection in

rural and remote areas, concerns regarding data privacy, risks of cybersecurity issues, lack of public awareness regarding online mediation and lack of trust in online dispute resolution platforms. While it is an effective piece of legislation to support and promote the use of mediation in India and the Mediation Act, 2023, lays the institutional groundwork, the need for effective institutional support and public engagement cannot be overstated in order to maintain its goal. Creating awareness campaigns, making available safe and accessible e-platforms, training trained mediators, cost-effective models, use of appropriate confidentiality and procedural fairness can assist in building trust for distance mediation. Also, special emphasis on economically weaker section and individuals who have limited technological access to make sure that digital justice does not erect new barriers to obtain justice.

In conclusion, online mediations in India hold significant potential to streamline, accessible and citizen centrist the justice delivery system in India. It is not meant to take the place of the post office or judicial procedure, however, rather to supplement the latter for those justifiable cases where conflicts can be settled in a way other than judicial. Strengthening the legal regime, expanding access to justice and enhancing public awareness and institutional collaboration are all essential to establishing a thriving online mediation ecosystem.

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