



Alternative Dispute Resolution in Cyber Crime in India

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ABSTRACT

India's digital wave has changed almost everything—how we bank, shop, learn, and connect. As the internet sinks deeper into daily life, cybercrimes are developing too: from data breaches and identity theft to financial scams and copyright violations. But let's be honest, our courts moving at very slow pace leading tech disputes pending for long time. So where do we go from here? This article dives into how India can use Alternative Dispute Resolution (ADR)—things like arbitration, mediation, conciliation, and online dispute resolution (ODR)—to solve cyber disputes faster and smarter. We'll look at the laws, court decisions, institutions, and even check out how other countries do it. The article maps out the key jurisdictional, evidence, and enforcement challenges, then lays out a plan for building up ADR for cyber issues in India.

1. Introduction: Digital Transformation and Its Discontents

India's rapid digital transformation, driven largely by the *Digital India* initiative, has reshaped everyday life. With over 750 million internet users, the country now stands among the largest and fastest-growing digital economies in the world. Essential services—banking, governance, education, healthcare, and commerce—have increasingly migrated online.



However, this expansion has brought unintended consequences. The same infrastructure that enables convenience has also created opportunities for cybercrime. Data from national agencies indicates a steady rise in incidents such as phishing, ransomware attacks, identity theft, financial fraud, and social media scams. While reported cases continue to grow at a significant rate each year, conviction rates remain disproportionately low, and the judicial system struggles under mounting backlogs.

Cyber disputes present challenges that traditional court systems are not well-equipped to handle. Questions of jurisdiction become complex when offenders operate across borders. Many cases demand technical expertise that conventional legal processes often lack. Moreover, the pace of technological change means that by the time a dispute is resolved, the underlying technology—or even the nature of the dispute—may already be outdated. Physical court procedures, with their inherent delays and formalities, often fail to align with the dynamic nature of cyberspace.

In this context, Alternative Dispute Resolution (ADR) emerges as a practical and adaptive mechanism. Its emphasis on flexibility, speed, confidentiality, and subject-matter expertise makes it particularly suited for digital disputes. Yet, applying ADR to cyber conflicts requires rethinking traditional principles to suit a borderless, technology-driven environment. This article explores the evolving framework of cyber ADR in India, examining its strengths, limitations, and future potential.

2. Conceptual Foundations: ADR and Cyber Disputes

2.1 The ADR Spectrum

ADR broadly refers to mechanisms that resolve disputes outside conventional court systems. These include:

- **Arbitration:** A structured process where a neutral arbitrator (or panel) delivers a binding decision. It offers procedural flexibility while maintaining finality.
- **Mediation:** A collaborative approach where a mediator facilitates dialogue and helps parties reach a mutually acceptable solution. The mediator does not impose a decision.
- **Conciliation:** Similar to mediation, but the conciliator may propose solutions or draft settlement terms.
- **Negotiation:** The most basic form, involving direct discussions between parties without third-party involvement.



- **Online Dispute Resolution (ODR):** A technology-driven extension of ADR that uses digital platforms, automation, and sometimes artificial intelligence to resolve disputes.

2.2 Distinct Features of Cyber Disputes

Cyber disputes differ significantly from conventional conflicts:

They frequently involve cross-border elements, complicating jurisdiction and enforcement. They require technical expertise, often involving digital forensics, cybersecurity protocols, or blockchain systems. They evolve rapidly, making timely resolution critical. Digital evidence is fragile, easily altered or lost without proper preservation. Parties may operate under anonymity, making identification and service of notice difficult. A single incident may affect large groups of victims, making individual litigation impractical.

2.3 Why ADR is Suitable for Cyber Disputes

ADR aligns well with the needs of cyber conflict resolution:

- **Speed** ensures timely intervention in fast-moving disputes.
- **Expertise** allows selection of technically competent decision-makers.
- **Confidentiality** protects sensitive business and technological information.
- **Flexibility** accommodates virtual hearings and digital evidence.
- **Cost efficiency** makes it accessible, especially for low-value claims.
- **Relationship preservation** is valuable in ongoing commercial engagements.

3. The Indian Legal Framework

India's legal system, while not originally designed for digital disputes, has gradually evolved to accommodate the needs of a technology-driven society. Rather than relying on a single comprehensive statute, the framework for cyber Alternative Dispute Resolution (ADR) emerges from a combination of laws that collectively recognize electronic transactions, enable flexible dispute resolution mechanisms, and promote out-of-court settlements. These statutes, when read together, provide a workable—though still developing—foundation for resolving cyber disputes efficiently.



3.1 Information Technology Act, 2000

The Information Technology Act, 2000 serves as the cornerstone of India's cyber law regime. Its primary contribution lies in granting legal recognition to electronic records and digital signatures, thereby legitimizing online transactions and communications. This recognition is crucial for ADR in cyberspace, as it ensures that agreements formed electronically—such as arbitration clauses embedded in online contracts—are legally enforceable.

The Act also establishes a framework for adjudication in specific categories of cyber disputes, particularly those involving unauthorized access, data breaches, and failure to protect sensitive information. Adjudicating officers are empowered to handle such matters in a quasi-judicial capacity, offering a relatively faster alternative to traditional courts.

However, practical limitations persist. These adjudicatory mechanisms often face issues such as limited technical expertise, procedural inefficiencies, and a heavy caseload. As a result, while the Act lays an essential legal foundation, it does not fully realize the potential of streamlined dispute resolution in the digital context.

3.2 Arbitration and Conciliation Act, 1996

The Arbitration and Conciliation Act, 1996 provides the primary legal basis for arbitration and conciliation in India and aligns closely with international standards. Its flexibility makes it particularly relevant for cyber disputes, which often require adaptable procedures and specialized expertise.

One of the key strengths of the Act is its recognition of arbitration agreements formed through electronic means. Communications via email, digital platforms, or online contracts are considered valid, enabling parties engaged in e-commerce or digital services to incorporate arbitration clauses seamlessly.

The Act also allows parties significant autonomy in determining procedural rules, including the use of virtual hearings, electronic submission of evidence, and online communication. This adaptability is essential for disputes that may involve parties located in different jurisdictions.

Additionally, judicial intervention is intentionally limited. Courts generally refrain from interfering in arbitral proceedings except in narrowly defined circumstances, such as procedural irregularities or violations of public policy. This approach promotes efficiency and finality, both of which are critical in resolving fast-moving cyber disputes.



3.3 Mediation Act, 2023

The enactment of the Mediation Act, 2023 marks a significant step in strengthening India's ADR ecosystem. For the first time, mediation has been given a comprehensive statutory framework, elevating its status from a largely voluntary practice to a structured and enforceable process.

A notable feature of the Act is its explicit recognition of online mediation. Parties can conduct mediation sessions through digital platforms, making the process accessible even in cross-border disputes where physical meetings may not be feasible. This aligns closely with the needs of cyber disputes, which are inherently digital in nature.

Equally important is the enforceability of mediated settlement agreements. Once finalized, such agreements carry the same legal weight as a court decree, ensuring compliance and reducing the need for further litigation. This enhances confidence in mediation as a reliable dispute resolution mechanism.

The Act also envisages institutional support through regulatory bodies and accreditation systems, which could, in the future, help develop specialized mediators with expertise in technology-related disputes.

3.4 Consumer Protection Act, 2019

The Consumer Protection Act, 2019 reflects the changing nature of consumer markets, particularly the rapid growth of e-commerce and digital services. Recognizing the need for quicker and more accessible dispute resolution, the Act incorporates mediation as a key component of its framework.

Consumer disputes arising from online transactions—such as defective products, service deficiencies, or unfair trade practices—can be referred to mediation cells established under the Act. This approach reduces the burden on consumer courts and encourages amicable settlements.

In addition, the Act supports the integration of Online Dispute Resolution (ODR) mechanisms, allowing complaints to be filed and processed digitally. This is particularly beneficial for consumers who may otherwise face barriers in accessing traditional forums.

By embedding ADR within the consumer protection framework, the law not only enhances efficiency but also strengthens trust in digital marketplaces.



3.5 Code of Civil Procedure, 1908

Although enacted long before the digital era, the Code of Civil Procedure (CPC), 1908 has been adapted to encourage alternative dispute resolution. Provisions relating to pre-litigation mediation, particularly in commercial disputes, require parties to attempt settlement before approaching the courts.

This requirement has indirect but important implications for cyber disputes, especially those arising from commercial transactions conducted online. By mandating an initial attempt at resolution outside the courtroom, the CPC promotes a culture of negotiation and settlement.

Over time, courts have also shown increasing willingness to refer disputes to mediation or arbitration, recognizing the practical benefits of ADR in reducing delays and improving outcomes. While the CPC does not specifically address cyber disputes, its procedural emphasis on settlement complements the broader legal framework supporting ADR.

4. Specialized Applications of Cyber ADR

4.1 Domain Name Disputes

Disputes relating to domain names represent one of the earliest and most successful uses of online dispute resolution in the digital environment. As the internet expanded, conflicts began to arise between trademark holders and individuals or entities registering domain names in bad faith—a practice commonly known as cybersquatting. Traditional litigation proved too slow and geographically limited to address such issues effectively.

To overcome these challenges, specialized online arbitration mechanisms were developed, allowing disputes to be resolved entirely through digital processes. Proceedings typically involve electronic submission of complaints, documentary evidence, and written arguments, eliminating the need for physical hearings. Decision-makers with expertise in intellectual property and internet governance are appointed, ensuring informed and efficient adjudication.

A key strength of this system lies in its enforceability. Domain registrars are contractually bound to implement decisions, such as transferring or cancelling domain names, which significantly enhances compliance. The speed, cost-effectiveness, and global applicability of these mechanisms have made domain name dispute resolution a model for other forms of cyber Alternative Dispute resolution.



4.2 E-Commerce Disputes

The rapid growth of e-commerce platforms has transformed consumer markets, but it has also led to a surge in disputes involving defective goods, delayed deliveries, misleading advertisements, unauthorized transactions, and refund issues. Given the sheer volume of such complaints, traditional consumer forums often struggle to provide timely relief.

Online Dispute Resolution (ODR) has emerged as a practical response to this challenge. Many e-commerce platforms now integrate dispute resolution systems directly into their interfaces, allowing consumers to file complaints, upload evidence, and communicate with sellers or mediators in real time. These systems often combine automated tools—such as algorithm-based claim assessment—with human oversight to ensure fairness.

The primary advantage of ODR in this context is scalability. It enables the resolution of large numbers of low-value disputes quickly and at minimal cost. Additionally, it improves consumer confidence by offering accessible and user-friendly mechanisms for grievance redressal. As digital commerce continues to expand, the role of ODR in consumer protection is likely to become even more significant.

4.3 Data Protection Disputes

With increasing digitization, concerns surrounding personal data privacy have gained prominence. Disputes in this area typically arise from unauthorized data processing, data breaches, misuse of personal information, or non-compliance with regulatory obligations. These issues often involve multiple jurisdictions, especially when data flows across national borders.

ADR mechanisms are particularly well-suited for resolving such disputes due to their flexibility and confidentiality. Unlike court proceedings, which are public, ADR allows sensitive information to be handled discreetly—an important consideration in privacy-related conflicts. Moreover, ADR processes can be tailored to accommodate technical evidence, such as audit reports, cybersecurity assessments, and data flow analyses.

In cross-border scenarios, ADR offers a neutral forum that avoids complex jurisdictional conflicts. As India's data protection framework continues to evolve, integrating structured ADR processes could help ensure quicker and more efficient resolution of privacy disputes while reducing the burden on regulatory authorities.



4.4 Intellectual Property Disputes

The digital environment has significantly increased the complexity and frequency of intellectual property (IP) disputes. Online platforms facilitate the rapid distribution of copyrighted content, unauthorized use of trademarks, and digital counterfeiting, often on a global scale. Enforcing IP rights through traditional litigation can be both time-consuming and jurisdictionally constrained.

ADR provides a more adaptable framework for addressing these challenges. Arbitration and mediation allow parties to select decision-makers with specialized knowledge of IP law and digital technologies. This expertise is particularly valuable in cases involving technical issues such as software licensing, digital content distribution, or algorithmic innovations.

Furthermore, ADR offers procedural flexibility, enabling parties to design processes that suit the nature of the dispute. For example, disputes involving ongoing business relationships—such as licensing agreements—can benefit from mediation, which focuses on preserving commercial ties. In contrast, arbitration may be preferred where a binding determination is required. As digital innovation continues to accelerate, the importance of efficient IP dispute resolution mechanisms will only grow.

4.5 Fintech Disputes

The fintech sector has introduced new financial technologies that have reshaped banking, payments, lending, and investment services. While these innovations enhance efficiency and accessibility, they also generate novel categories of disputes. Common issues include failed digital transactions, unauthorized withdrawals, algorithmic errors in lending decisions, and disputes arising from cryptocurrency or blockchain-based systems.

ADR mechanisms offer a practical means of addressing these conflicts. Given the technical nature of fintech disputes, parties can benefit from arbitrators or mediators who possess both legal and technological expertise. Additionally, ADR processes can be conducted entirely online, aligning with the digital nature of fintech services.

One emerging area is the use of smart contracts—self-executing agreements embedded in blockchain systems. These technologies have the potential to automate not only transactions but also aspects of dispute resolution. Although still evolving, such innovations highlight the need for flexible and forward-looking ADR frameworks capable of adapting to technological advancements.



6. Key Challenges

Despite its advantages, the implementation of cyber ADR in India faces several structural and practical challenges.

Jurisdictional issues: Cyber disputes frequently involve parties, servers, and transactions spread across multiple jurisdictions. Determining the applicable law and the appropriate forum can be complex, often leading to delays and uncertainty. While ADR allows parties to agree on jurisdiction, enforcement across borders remains a significant concern.

Complexity of Digital Evidence: Digital evidence presents unique challenges in terms of authenticity, reliability, and preservation. Electronic data can be easily altered or deleted, making it essential to establish robust procedures for collection, storage, and verification. Additionally, interpreting technical evidence often requires specialized expertise.

Shortage of Skilled Professionals: Effective cyber ADR depends on professionals who understand both legal principles and technological systems. However, there is currently a limited pool of arbitrators and mediators with such interdisciplinary expertise. This gap can affect the quality and credibility of dispute resolution outcomes.

Enforcement Difficulties: Even when disputes are resolved through ADR, enforcing outcomes—particularly in cross-border cases—can be problematic. Differences in national laws, regulatory frameworks, and public policy considerations may hinder recognition and execution of awards or settlements.

Imbalance of Power: Many cyber disputes involve individuals or small businesses on one side and large corporations or digital platforms on the other. This imbalance can influence the negotiation process and potentially undermine fairness. Ensuring accessible and equitable ADR mechanisms is therefore essential.

Regulatory Uncertainty: Emerging technologies such as artificial intelligence, blockchain, and decentralized finance operate in areas where legal frameworks are still developing. This uncertainty creates challenges in defining rights, obligations, and remedies, making dispute resolution more complex.



9. Conclusion

India's digital expansion demands equally advanced dispute resolution mechanisms. Traditional courts alone cannot address the speed, scale, and complexity of cyber conflicts. ADR, particularly in its online form, offers a viable and necessary alternative.

However, realizing its full potential requires coordinated efforts—legal reform, institutional development, technological investment, and skill enhancement. A hybrid model, combining the strengths of ADR and judicial oversight, appears to be the most effective path forward.

Ultimately, trust in the digital ecosystem depends not just on innovation, but on the assurance that disputes can be resolved fairly, efficiently, and accessibly. Strengthening cyber ADR is therefore not merely a procedural reform—it is essential to sustaining India's digital future.

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