VOLUME 7 | ISSUE 2

INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

INTERPLAY BETWEEN CONFIDENTIALITY AND EFFICIENCY IN ONLINE DISPUTE RESOLUTION BY INTEGRATING ARTIFICIAL INTELLIGENCE

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ABSTRACT

Online Dispute Resolution is the latest development among alternative dispute resolution. ODR promotes the resolution of disputes virtually. Lately, artificial intelligence has been playing a vital role in most fields, but in the legal industry, most countries are very reluctant to integrate it, as it poses a threat to the confidentiality of disputes between parties and the integrity of the award. This essay examines the necessity of deploying artificial intelligence into online dispute resolution, along with analyzing whether the efficiency generated through the application of AI poses a threat to confidentiality and data privacy, which are the cornerstone of alternative dispute resolution, while analyzing judgments in the USA and the UK that allowed predictive coding to review vast amounts of electronic data by providing detailed guidelines to be followed. If such AI, being a facet of information and communicationstechnology, is deployed into ODR in India, it may pose challenges to the validity of the award, the lack of regulatory oversight regarding document retention and data privacy, and the challenges that may arise due to the current self-regulatory system of ODR service providers in India.

Keywords: *ODR, AI, Confidentiality, Dispute Resolution, ICT.*

INTRODUCTION

Before the advent of Online Dispute Resolution, dispute resolution could be achieved either by approaching the courts or through the Alternative Dispute Resolution (ADR) mechanism, such as Arbitration, Mediation, Negotiation, Conciliation, and Lok-Adalats, which mandates that the parties, advocates, judges, arbitrators, mediators, or conciliators attend the proceedings physically. With the rapid surge and advancement in technology, and also due to

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the strict quarantine and lockdown imposed all over the world due to the outbreak of Covid-19, dispute resolution found its way virtually.

Online Dispute Resolution (ODR) may be explained as the application of information and communications technology to facilitate the prevention, management and resolution of disputes."[2] ODR is not just confined to conduct of arbitration or other ADR proceedings online it includes Online Agreement to arbitrate or resolve through any other ADR mechanism, proceedings take place online through video conferencing facilitated by ODR service providers, electronic evidence, online arbitral award with digital or electronic signature.[3]

Artificial Intelligence is defined by the European Commission as "systems that display intelligent behaviour by analysing their environment and taking action-with some degree of autonomy-to achieve specific goals.AI is a technology which facilitates the computer and machine to reproduce human-thinking, learning and problem solving."[4]It works in following manner:

Data Analysis: AI reads vast amount of data and information to identify patterns.

Algorithms: Consists step wise rules that guides AI to give a final response or answer.

Learning: The accuracy of AI will be enhanced over time without any new external code.

The effective incorporation of AI in the Online Dispute Resolution is not merely about deploying a computer to automate the current procedures, instead it may be viewed similar to re-designing the dispute resolution mechanism to accurately focus on prioritizing the interests of users, outcome generated alongside the enhanced ad hoc features of emerging technologies to faciliate dispute resolution in a flexible and convinient manner that reduces costs of travelling, difficulty of fixing adgjournments convenient to all parties, counsels, arbitrator/mediator/conciliator, costs for venue being the physical location where the proceedings take place etc.[5]

NEED FOR INTEGRATING AI IN ODR

[2] Sankalp Jain, 'Online Dispute Resolution: Mechanism, Modus Operandi and Role of Government' (11 October 2015) SSRN <https://ssrn.com/abstract=2779901> accessed 8 January 2026.

[3] NITI Aayog, Designing the future of dispute resolution the ODR policy plan for India, NITI Aayog expert committee on ODR (October 2021) <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> accessed 8 January 2026.

[4]Philip Boucher, *Artificial Intelligence : How Does It Work, Why Does It Matter,and What Can We Do about It?* (European Parliament 2020).

[5] None, Dr Sonal Sharma, Yash Raj Mishra, Ravinder Sharma, Dr Rakesh Kumar, Dr Rajesh Chandra Ranjan and Dr Sarita Kumari, 'Artificial Intelligence and Online Dispute Resolution in Consumer Tribunals' (2025) 2(4) Advances in Consumer Research 4561.

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With the surge of technological advancement over last three decades, the integration of technology into legal field and judiciary has taken a rapid change.[6]Although, "the technology exists, should be used where appropriate."[7] Just because the technological advancements such as Artificial Intelligence have been developed, is there a necessity to integrate AI into the legal system?

Kinds of services potentially may be used

At present the legal industry is too hesitant to accommodate emerging technologies such as technology-assisted review.[8] There is no law determining the validity of outcome predicted by applying tools in deciding a case or predicting an outcome in courts or in ADR mechanisms or identifying areas of settlement in ADR or ODR using technology assisted review, predictive coding, analysis models in India.

In England in the case of *Pyrrho Investments Ltd. v MWB Property,*[9] the application of predictive coding,[10] has been allowed to review and find out the relevant electronic data for consideration, the primary reason being that the electronic data exchanged between the parties contained millions of documents and other information in the form of e-mails. Manual review of this electronic data would be expensive, time consuming and burdensome on the part of parties, advocates & experts. Therefore, the Supreme Court allowed deploying predictive coding, as the technology assisted review would be more effective, feasible and superior than the existing alternate techniques.

The Supreme Court of India, started to utilise tools that have been developed based on machine learning and artificial intelligence for the purpose of data extraction, rectifying the errors, transcription of oral arguments, e-filing, software developed for effective case management to determine the priority. "However, no AI and ML based tools are being used by the Supreme Court of India in decision-making process."[11]

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[6] Niti (n 2) at 53, Through the E-Courts mission mode project which includes National Judicial Data Grid and enhanced accessibility to check the case status, e-filing and during Covid lockdown the traditional court system had to continue its proceedings virtually, later most of the High Courts adopted and allowed advocates to appear in hybrid mode.

[7]Pyrrho Investments Ltd. v MWB Property (2016) EWHC 256 (Ch).

[8] James A. Cockburn, 'Holding back the tide: the rise of the machines in arbitration, (*Practical Law Arbitration Blog*, 1 August 2019) <http://arbitrationblog.practicallaw.com/holding-back-the-tide-the-rise-of-the-machines-in-arbitration/> accessed 14 January 2026.

[9] Ibid (n 4).

[10] Predictive coding is a subset of predictive analytics.

[11] Press Information Bureau, 'Use of AI in Supreme Court Case Management' (Ministry of Law and Justice, 20 March 2025 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2113224&reg=3&lang=2> accessed 12 January 2026.

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Decision making process results in the final judgment, determining the rights and liabilities of the parties it is deduced based on legal reasoning applied by the adjudicator driven by human judgment and empathy.

Artificial Intelligence comes to rescue when completion of a task manually, is onerous. It should be restricted to the part where its application streamlines the judicial or arbitral or other proceedings, where it is useful in processing big data and identifying the relevant documents for effective consideration, in rendering the award.

But the core decision making process should not be interfered by integrating Artificial Intelligence, the binding nature of the award drived through the application of the judicial mind. There does not exist any necessity to replace the decision-making process of an arbitrator by Artificial Intelligence.

Few empirical studies have been conducted to find out the accuracy of predicting the outcome of the case by providing only facts and circumstances of decided cases as input excluding the contents regarding the decision given, it rendered 79% accuracy by applying Natural Learning Processing.[12] Yet, such studies depicts statistical correlation but not effective judicial reasoning.[13]

The need to apply Artificial Intelligence arises when the parties are often required to rely simultaneously on various documents to substantiate their facts and claims when parties consensually agree and disclose application of 'predictive coding' to tribunal, reduces time and costs bearing on the parties.[14]

DOES INTEGRATION OF AI BECOME A GROUND TO SET ASIDE THE AWARD

It has been accepted globally that decisions by the courts or arbitral tribunals are being delivered by the judges or arbitrators by applying their 'judicial mind.'[15] which at no cost can be replaced by technology.

[12]Nikolaos Aletras and others, 'Predicting Judicial Decisions of the European Court of Human Rights: A Natural Language Processing Perspective' (2016) 2 PeerJ Computer Science e93 <https://peerj.com/articles/cs-93> accessed 12 January 2026.

[13]Conor O'sullivan and Joeran Beel, 'Predicting the Outcome of Judicial Decisions Made by the European Court of Human Rights' (2019) <http://hudoc.echr.coe.int/eng?i=001-194614>.

[14] Andrea Stauber, 'Building a case: controlling time and cost in construction arbitrations, (*Practical Law Arbitration Law Blog*, 2 March 2020) <https://arbitrationblog.practicallaw.com/building-a-case-controlling-time-and-cost-in-construction-arbitrations/> accessed 14 January 2026.

[15] Karen Maxwell, 'Summoning the demon: robot arbitrators: arbitration and artificial intelligence', (*Practical Law Arbitration Law Blog*, 17 January 2019) <http://arbitrationblog.practicallaw.com/summoning-the-demon-robot-arbitrators-arbitration-and-artificial-intelligence/> accessed 14 January 2026.

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The Court of Appeals in England in *Triumph Controls and Anr. V. Primus International Holding and Ors*,[16] has laid down the following principles need to be satisfied to apply Technology Assisted Review:

i. Technology Assisted Review (TAR) has been demonstrated to provide more accurate disclosure compared to the assessment done manually and keyword searches.
ii. When TAR software is effectively "trained" by a senior advocate it can provide more consistency in the outcome, than when reviewed by individual and less experienced document reviewers.
iii. Consensus between parties is an essential requirement for integrating TAR process. Unilaterally applying TAsuR by one of the parties is generally not recommended.
iv. The parties using TAR are required to disclose the relevant details regarding the software to maintain transparency and accountability.
v. A chronological and detailed record of the application of the TAR software is required to be disclosed.

Does party autonomy prevail when there is a cloud over regulatory framework?

The existing legal framework concerning Alternate Dispute Resolution including ODR, does not ipso facto deny integration of emerging technologies into Arbitration and other proceedings. Which emphasizes the party autonomy, restoring the freedom of choosing the procedure for the proceedings.[17]

Parties have the liberty to choose the rules to be followed regard to the procedure of the proceedings, which the tribunal is bound to follow. The autonomy of the parties over the procedure allows it to be adapted to meet their specific requirements,[18] yet it is not an absolute freedom of autonomy, it is limited to public policy and the law in force.[19]

Section 19 of the Arbitration and Conciliation Act,[20] provides for "Determination of Rules of Procedure" is wide enough to parties can frame their own rules governing the procedure of

[16] Triumph Controls and Anr v. Primus International Holding and Ors (2018) EWHC 176 (TCC).
[17] Magdalena Łągiewska, 'New Technologies in International Arbitration: A Game-Changer in Dispute Resolution?' (2024) 37 International Journal for the Semiotics of Law - Revue internationale de Sémiotiquejuridique 851.
[18] Law4u,'Can parties choose their own procedural rules for arbitration in India?' 28 June 2024 <https://law4u.in/answer/5801/Can-parties-choose-their-own-procedural-rules-for-arbitration-in-India> accessed 15 January 2026.
[19] Yeshnah D Rampall, Ronán Ron´ and Ronán Feehily, 'The Sanctity of Party Autonomy and the Powers of Arbitrators to Determine the Applicable Law: The Quest for an Arbitral Equilibrium' (2018) 23 Harvard Negotiation Law Review 349.
[20] Arbitration and Conciliation Act,1996 s 19.

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conduct of proceedings, unless restricted by the Act,[21] but such rules shall be based on an existing law in force.

For the parties to choose integrating technology in Online Dispute Resolution first there shall exist a law validating and regulating its use, which in European countries is in its nascent stage whereas in India it appears to be in the sub-nascent stage, integrating ICT into dispute resolution does not seem feasible with the existing framework, and may lead parties to challenge the validity of award even if AI is not used for decision making process but to review the electronic data on the ground that award is not on merits, which is subject to judicial review whether it is valid or not, but when there is a cloud over its validity, it surfaces the losing party to challenge the award.

ADVANTAGES

When dispute between parties, generally disputes of commercial nature there is high tendency that vast amounts of electronic documents may be exchanged between the parties. In such scenarios by adopting rules laid down in *Triumph Controls,*[22]case integrating technology assisted review may reduce manual work load along-side being time efficient.

Choosing closed artificial intelligence models over open artificial intelligence models would be relatively a safer option, as closed AI models are specifically controlled and designed for a single or limited group of organisations. It restricts accessibility only to those having licence. Though it is not a complete foolproof mechanism it is the better optimal choice.[23]

Modria is an ODR platform in USA integrating information communication technology "combines law, economics, and psychology with intuitive ICT information and communications technology to help citizens prevent, manage, and resolve their disputes."[24]

BlueJ artificial intelligence primarily used in USA, Canada, UK predicts outcomes of case, provides comprehensive research based on key factors influencing decisions and judgments by incorporating machine learning tools.[25]

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[21]ibid s 19(1) Subject to this part, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.

[22]Triumph Controls (n 15).

[23]George Lawton, 'Attributes of open vs. closed AI explained' (*Techtarget,* 8 July 2024) <www.techtarget.com/searchEnterpriseAI/feature/Attributes-of-open-vs-closed-AI-explained> accessed 15 January 2026.

[24]Tyler Technologies, 'Modria a Tyler Solution Online Dispute Resolution' <https://www.tylertech.com/Portals/0/OpenContent/Files/4080/Modria-Brochure.pdf> accessed 13 January 2026.

[25]Attorney at work, 'BlueJ: AI Powered Legal Prediction & Research Software' <https://buyerguide.attorneyatwork.com/listing/blue-j-ai-legal-prediction-research-software/> accessed 13 January 2026.

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PERILS OF INTEGRATING AI INTO DISPUTE RESOLUTION

Efficiency generated through AI attacks confidentiality:

Survey conducted by Silicon Valley Arbitration and Mediation Centre,[26] revealed that main reason for opting Alternate Dispute Resolution is decision rendered by expert presiding officer is binding on the parties along-side the confidential nature of the proceedings which is one of the main pillars of ADR upholding party autonomy and preserve business relationships and protect brand value in the public.

For instance, in the case of Apple and Qualcomm patent infringement legal battle has been concluded through negotiation. The details of the final settlement has not been disclosed to the public and is kept confidential. Here both the parties amicably resolved and settled their claims alongside protecting their brand value and also developed future collaboration.[27]

In such high-profile cases involving confidential information parties generally do not tend to deploy artificial intelligence and technology though it is relatively effective. When the present law[28] does not specify rules regarding document retention. The Online Dispute Resolution service providers fall within the definition of 'intermediary'[29] as per the Information Technology Act,[30] section 67C of the Act,[31] is applicable which leaves it for the central government to make rules subsequently.

In the absence of statutory safeguards preventing misuse of such confidential information submitted to Artificial Intelligence through intermediary. There is no guarantee that data shared to it, is utilised only for the purpose it is supposed to. It is highly probable that information may be dispersed to and accessed by any unauthorised third party.

AI is prone to Bias:

[26]Benton, Chris Compton and Les Schiefelbein, 'Cost is the top tech litigation problems' (2017) <https://svamc.org/wp-content/uploads/SVAMC-2017-Survey-Report.pdf> accessed 12 January 2026.

[27] Shangle Chen, Chang Liu and Jiaming Yang, 'The Patent Dispute Between Apple, Samsung, and Qualcomm: Was Apple, a Good Negotiator?' (International Conference on Economic Development and Business Culture January 2021).

[28]Information Technology Act, 2000.

[29]Information Technology Act,2000 s 2(1)(w)"intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes.

[30]Ibid.

[31]ibid s 67C (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

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It is often indicated that artificial intelligence provides outcome trying to satisfy the user and in its course there is every likelihood that it may misinterpret the data.[32] Few studies found out AI may also show bias towards certain ethnic and racial groups,[33] maintaining anonymity would mitigate societal bias.

Lack of Regulatory Framework:

The validity of Online Dispute Resolution has been construed through amending the existing legislations such as "Arbitration and Conciliation Act,[34]"; "Information Technology Act,[35]"; "Civil Procedure Code.[36]" There is no statute enacted solely to regulate ODR. The Online Dispute Resolution should be regulated not just validated. NITI Aayog in its report,[37] has fostered and has inclined towards the idea of self-regulation by the ODR platforms for the time being as ODR in India is still in its nascent stage of development and usage.[38]

Therefore, the expert committee formed to devise a plan or strategy to formulate a policy concerning Online Dispute Resolution concluded that self-regulating rules and procedures may be sufficient at present for a temporary period, requiring the government to enact a separate legislation for ODR.[39]

There is no law occupying the field for authorising, certifying or licensing the ODR service providers. The Department of Legal Affairs has clarified that there is "no procedure for recognizing hosting or grading institutions offering ODR services."[40] It has been issued to clarify that earlier letter dated 18.09.2020 had contained a list of ODR service providers operating at that time in India, such service providers placed in their websites that they have been recognized by the Department of Legal Affairs, therefore the ADR cell of the

[32]Paloalto Networks, 'What is AI Bias? Causes, Types & Real-World Impacts' Interaction bias develops over time through user engagement. Systems that adapt to input, reinforcement, or feedback loops can internalize stereotypes and repeat them in outputs. <https://www.paloaltonetworks.in/cyberpedia/what-is-ai-bias> accessed 16 January 2026.

[33]ibid societal bias becomes visible when AI mirrors existing cultural or institutional inequities. Outputs may underrepresent some groups, because patterns stem from a broader social data.

[34]Arbitration and Conciliation Act, 1996 Section 2 (1) (a) to include arbitration that is wholly or partly conducted online by using ICT; s 7(4)(b) arbitration agreement was amended in 2016 and inserted "including communications through electronic means."

[35] Information Technology Act, 2000 to introduce provisions regulating safe exchange of documents, communication between parties, examination of witnesses and passing of awards/executing settlement agreements in ODR.

[36] Civil Procedure Code 1908 s 89 to recognise ODR for each of the category of ADR including Arbitration, Mediation, Negotiation, Conciliation, Lok Adalats.

[37] Niti (n 2).

[38] ibid.

[39] ibid 99.

[40] ADR Cell Department of Legal Affairs Ministry of Law and Justice, Important Notice for General Public Regarding Hosting/ Recognition of ODR Institutions (24 February 2025) <https://legalaffairs.gov.in/sites/default/files/ApprovedNoticeDated_24.02.2025.pdf> accessed 7 January 2026.

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department clarified that the afore-mentioned letter does not confer any official recognition by the government and there are no standards or eligibility criteria for recognition of the ODR platforms.[41]

Lack of Uniformity among ODR platforms:

At present in India the following ODR platforms are functioning through self-regulating rules and guidelines MSME,[42] JUPTICE,[43] SAMA,[44] Presolv360,[45] CORD.[46] These rules face major statutory[47] and structural limitations. The rules among all these platforms are not uniform and sufficient. While government is promoting self-regulation, the ODR platforms neither assume liability nor responsibility which creates hardship for the parties, making it risky and unsuitable for cases involving highly confidential information and if it is also an International Commercial Arbitration where ODR may the most feasible, time and cost saving mode of dispute resolution, then lack of a uniform regulatory framework may become a reason for the parties to optout from Online Dispute Resolution.

The European Union Artificial Intelligence Act, [48] had classified AI tools deployed in judicial system and ADR mechanisms under the 'high risk' category. Such systems are required to adhere to the stringent standards for "data quality, documentation, human oversight and transparency"[49]

Indeed, with the change of pace in the legal industry regarding artificial intelligence in dispute resolution makes it essential that the manner in which all the stakeholders such as parties, counsels and tribunal use and interact with technology shall be subject to continuous ongoing review.[50]

Similarly, AI systems that support such decisions are also not likely to be classified under high-risk category if they meet certain criteria. But all other AI used in arbitration are

[41] Ibid.
[42]MSME ODR Portal, Website Policy: Terms and Conditions Ministry of Micro, Small and Medium Enterprises <https://odr.msme.gov.in/#/website-policy>.
[43]Juptice ODR, Juptice ODR Procedural Rules <https://jupiticeodr.com/about-odr/procedural-rules>.
[44]Sama Rules for Alternative Online Dispute Resolution, <https://www.sama.live/rules_and_procedures-2024>.
[45]Presolv360 resolve and evolve privacy policy <https://presolv360.com/privacy-policy>.
[46] Centre for Online Resolution of Disputes, CORD Arbitration Rules, CORD Mediation Rules <https://resolveoncord.com/about-us/>.
[47] Digital Personal Data Protection Act, 2023 which is not enforced yet and Information Technology Act, 2000.
[48]European Union Artificial Intelligence Act,2024.
[49]Ryan Abbott and Brinson S Elliott, 'Putting the Artificial Intelligence in Alternative Dispute Resolution' (2023) 4 Amicus Curiae 685.
[50]Julia Castro, 'Regulating AI in Alternative Dispute Resolution-Challenges risks and the EU AI Act' *EST Thinktank* 15 May 2025 <https://esthinktank.com/2025/05/15/regulating-ai-in-alternative-dispute-resolution/> accessed 2 January 2026.

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designated high-risk as decisions or outcomes derived through AI have legal consequences over the parties.[51]

Additional Administrative assistance required to handle AI:

Even if use of artificial intelligence is validated, additional technical expert is required to be hired to handle the technology integrated, apart from requiring senior or experienced legal counsel to train the data. A technical expert is required for continuously processing the data and reviewing the procedure.

There is also necessity to ensure such expert is also neutral and impartial like the officer presiding the proceedings as there is every likelihood that such expert may be biased towards one of the parties. Which requires a disclosure of interest and independence from such expert as well to uphold fairness and impartiality. It would be more efficacious if adequate training is provided to such expert before engaging their services.

CONCLUSION

Though the technology is pacing rapidly, reaching heights the law governing it is lying stagnant on the ground. When the regulatory oversight and statutory safeguards are lacking in India, parties choosing to integrate Artificial Intelligence based on information communications technology would stultify the very purpose it is opted. The use of AI not just endangers confidentiality but also threatens core ADR principles. AI can be used in the procedural operations where there is hefty need of manual work, while the use of ai can be restricted in the process of decision making.

[51]Ibid.

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