

Cross Border Dispute Resolution

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Abstract: *Since the inception of technology which propelled globalization, further catalyzed by COVID pandemic, the reliance on electronic means for communication, transactions, and interactions has become paramount. Recent findings from a Euro barometer survey reveal that a substantial 41% of individuals who initiated formal complaints regarding cross-border purchases expressed dissatisfaction with the resolution process. Notably, a mere 6% pursued arbitration, mediation, or conciliation mechanisms, prompting a critical examination of the reasons behind the limited recourse to these dispute settlement avenues. This research paper investigates the underlying factors influencing the low utilization of such mechanisms, probing into the experiences of dis-satisfied consumers and the barriers they encounter. Efficient resolution of disputes is recognized as a method to boost consumer trust in online purchases across international borders. This study investigates the practicalities of redress mechanisms available to consumers, the enforcement of consumer rights, and the utilization of online alternative dispute resolution, particularly within the context of cross-border e-commerce.*

Keywords:

Globalization, Pandemic, Communication, Dissatisfaction, Arbitration, Mediation, Conciliation, Trust, Legislation, Infrastructure, Literacy, Technology, E-commerce, Jurisdiction, Implementation

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Introduction

Online Dispute Resolution (ODR) represents an evolved mode of Alternative Dispute Resolution (ADR) introduced in 1996 through the pioneering "Virtual Magistrate" pilot project.¹ Conceived by Villanova University, this initiative aimed to establish a user-friendly, accessible, expeditious, and cost-effective means of administering justice. Despite the initial setback and perceived limitations of the ODR system, the concept has gained traction over time. Distinguished organizations such as the World Intellectual Property Organization, American Arbitration Association, and American Bar Association have played pivotal roles in fortifying and endorsing the viability of the ODR framework.² In jurisdictions like Pakistan, one can barely see a comprehensive legislation and published literature supporting Online Dispute Resolution (ODR). Leave alone, ODR, it was 2017 when first Act recognizing Alternate Dispute

¹ Asghar, Muhammad Sohail, Hafsa Naz, Dr. Hamid Mukhtar, and Kashif Mahmood Saqib. "Online Dispute Resolution (ODR) in Pakistan." University of Okara, Punjab, Pakistan.

² Kaya, S. (2020). Consumer dispute resolution in the digital age: Online dispute resolution. On iki Levha.

Resolution was passed.³ While extensive foreign literature on ODR exists, there is a distinct lack of information specifically adapted by the Legislature of Pakistani. For ODR to be effectively implemented and widely adopted in Pakistan, several barriers must be addressed. These challenges include ensuring the security and confidentiality of online proceedings, addressing limitations in technological infrastructure, promoting digital literacy among the population, and cultivating trust in the online dispute resolution mechanism. Overcoming these hurdles is crucial for the successful integration of ODR practices in the Pakistani legal landscape.

As Pakistan, like any other developing nation, advances towards a more digitally interconnected future, the transformative potential of online dispute resolution (ODR) in reshaping the dispute resolution landscape becomes increasingly apparent. Embracing the advantages of technology and fostering an environment conducive to ODR can significantly augment access to justice, alleviate the burden on traditional courts, and offer efficient, cost-effective dispute resolution mechanisms to the citizens of Pakistan. This shift towards embracing digital solutions reflects a forward-looking approach that aligns with the evolving needs of a more connected society. This research contributes a nuanced understanding of the intersection between electronic mediums and cross-border dispute resolution and proposes a roadmap for legal scholars, practitioners, and policymakers of Pakistan to adapt an effective legal mechanism addressing Online Dispute Resolution (ODR).

ODR's Potential in Overcoming Legal Delays

The assertion that arbitrations are preferable to trials is emphasized, particularly in the context of addressing the issue of case delays in Pakistan. This viewpoint is substantiated by the country's reputation as one of the most litigious globally, where the judiciary is synonymous with prolonged legal proceedings. Trials are often hindered by extensive delays, moving at a slow pace due to an emphasis on legal technicalities. This result in cases, particularly small claims, not being adjudicated promptly, as the court system is deemed too expensive, slow, and complex, especially for litigants without legal representation. The staggering backlog of over 2 million pending cases in Pakistan further exacerbates the challenges, surpassing the capacity of the legal system and other entities to resolve them expeditiously.⁴

In response to these challenges, alternative dispute resolution (ADR) techniques emerge as a viable solution. ADR encompasses various methods such as negotiation, mediation, conciliation, arbitration, and their combinations, offering avenues to resolve conflicts outside the traditional courtroom setting.⁵ These techniques gain recognition for their efficacy in conflict resolution. However, with the advent of the fourth generation and the widespread use of technology in various facets of life, including education, gaming, studies, and transactions, there arises a need for addressing conflicts that arise in the online realm. Online dispute resolution (ODR) emerges as a pertinent tool in this context, providing a means to resolve disputes that arise from online activities in an efficient and technologically driven manner. Globally, a limited number of courts have initiated the implementation of Online Dispute Resolution (ODR) Programs across various case categories in recent years. These include cases such as small claims, consumer debt matters, straightforward divorce proceedings involving child support, custody, and visitation, as well as non-criminal traffic cases.⁶ For instance, California introduced the "Online Dispute Resolution" program in 2017. In a specific case prior to the program's implementation, a dispute over a car repair bill was successfully resolved through an online mediation session between the involved parties. Similarly, in the UK, the HM Courts & Tribunals Service launched an online small claims mediation service in 2018, as reported by Frazer (2018). In an instance utilizing this service, an online

³ ADR Act, 2017.

⁴ Ali, B., Aziz-ur-Rehman, H. (2021). Protection of Fundamental Rights in Pakistan: A study of the development of public interest litigation. *Al-Qamar*, (4)1, Pp 19

⁵ Ibid.

⁶ Agor, P. H. (2020), Impact of the Utah Online Dispute Resolution (ODR) https://www.ncsc.org/__data/assets/pdf_file/0027/57636/Impact-of-the-Utah-ODR-PilotProgram.-Final-Report.pdf

mediation procedure facilitated the resolution of a disagreement between a landlord and tenant concerning a deposit, resulting in the tenant receiving a partial reimbursement of the deposit.⁷

The integration of Online Dispute Resolution (ODR) into the formal legal system is a relatively recent development. The inaugural and successful ODR platform was introduced by eBay in March 1999, in collaboration with the National Centre for Technology and Dispute Resolution (NCTDR), an entity affiliated with the University of Massachusetts. With this innovative mechanism in place, eBay achieved a fifty percent resolution rate for disputes among its registered consumers.⁸ Building on this success, eBay, in partnership with SquareTrade, a protection plan company, devised a 'two-stage' tech-assisted negotiation platform. This approach involved introducing a human mediator only in the later stage if the disputants were unable to reach a resolution in the earlier stage.⁹

Evolution and Success of Online Dispute Resolution (ODR)

The UNCITRAL Conciliation Rules of 1980

In response to the surge in globalization and the expansion of international trade, there was a recognized need within the international community to establish ground rules for conciliation that would be universally acceptable across countries with diverse legal, economic, and cultural frameworks.¹⁰ These conciliation rules offer a set of procedural guidelines accessible to parties, governing their mediation/conciliation proceedings should they choose to adopt them. Encompassing aspects such as the appointment method of the conciliator, their role, the general conduct of proceedings, confidentiality, admissibility of evidence, and restrictions on engaging in other adjudicatory procedures during settlement discussions, these rules aim to provide a comprehensive framework. Furthermore, the rules propose a model conciliation clause that can be incorporated into contracts. This marks the initial international effort to standardize the resolution of international disputes through conciliation, without resorting to a formal adjudication process. The aim is to facilitate harmonized approaches to dispute settlement that accommodate the diversity of legal systems, economic structures, and cultural perspectives prevalent in different countries.

The UNCITRAL Model Law on International Commercial Conciliation of 2002

The Model Law on International Commercial Conciliation, established in 2002 by the United Nations Commission on International Trade Law (UNCITRAL), serves as a testament to the global acknowledgment of the significance of mediation/conciliation in resolving international disputes. These rules are crafted as default rules, meaning that they automatically apply when parties have not specified any other set of procedural rules to govern their mediation process. Regarding the specific distinction between mediation and conciliation, the model law employs the terms interchangeably. It defines the process as one where parties seek the assistance of a third party to facilitate their efforts in reaching an amicable resolution of a dispute stemming from legal, contractual, or other relationships. The Model Law encourages all states to consider enacting legislation aligned with these rules, aiming to establish a consistent legislative framework for the application of mediation procedures in cross-border commercial disputes. This initiative reflects a concerted effort to promote uniformity and clarity in the global approach to resolving commercial disputes through mediation or conciliation processes.

⁷ Frazer, L. (2018)

<https://www.parliament.uk/globalassets/documents/commonscommittees/Justice/correspondence/Lucy-Frazer-HMCTS-online-civil-claims-pilot.pdf>

⁸ Katsh, E.; Rabinovich-Einy, O. (2017), „Online Dispute Resolution and Prevention: A Historical Overview,“ book chapter in *Digital Justice: Technology and the Internet of Disputes*.

⁹ Larson, D. A. (2019), *Designing and Implementing a State Court ODR System: From Disappointment to Celebration*, *Journal of Dispute Resolution*, (2) Pp. 77, 96-97

¹⁰ Connerty, *The Role of ADR in the Resolution of International Disputes*, 12 ARB. INT'L 47 (1996).

Article 5 of the Directive encourages courts to consider referring cases to mediation for the resolution of disputes when deemed appropriate, taking into consideration all relevant circumstances. The Directive also suggests that parties familiarize themselves with the mediation process by attending available information sessions. Notably, the Directive does not prohibit state courts from mandating mediation, either before or during judicial proceedings, as long as it does not infringe upon the parties' right to access the judicial system. It is crucial to emphasize that even when the Directive allows for the mandatory use of mediation, it upholds the voluntary nature of this method. The Directive explicitly preserves the parties' control over the mediation process, ensuring they retain the freedom to exit mediation at any point.¹¹

Encouraged by eBay's success, numerous other technology-driven companies, including Alibaba, PayPal, and Amazon, followed suit and implemented similar ODR initiatives.¹² The impact of ODR extends beyond e-commerce dispute resolution. Since 2014, the Netherlands has effectively resolved family disputes involving separating couples through the use of "Rechtwijzer," an online dispute resolution platform.¹³ This evolution showcases the broader applicability and success of ODR in addressing a spectrum of disputes, transcending the realm of e-commerce. To enhance the resolution of low-value cross-border online claims, the United Nations Commission on International Trade Law (UNCITRAL) adopted the Technical Notes on Online Dispute Resolution (ODR) during its 49th session in 2017. This model encompasses three stages utilizing an ODR platform: negotiation, settlement, and a final verdict by a neutral arbitrator. In a similar vein, the European Union implemented an ODR model through Regulation (EU) 524/3013. Furthermore, the Association of Southeast Asian Nations (ASEAN) has mandated its member nations to establish online dispute resolution platforms, facilitating more efficient and prompt resolution of e-commerce-related disputes within the region. Brazil's ODR platform, *Consumidor.gov.br*, administered by the Brazilian National Consumer Secretariat, has demonstrated notable success, surpassing the effectiveness of the EU's model.¹⁴ Originally designed in the 1990s for resolving e-commerce disputes, ODR has expanded its application beyond internet-originated cases.¹⁵ It has gained recognition as a crucial component of traditional legal systems, addressing specific types of offline cases in various jurisdictions. The National Centre for Technology and Dispute Resolution (NCTDR) has identified 32 courts globally that have fully incorporated ODR. A significant global trend toward integrating ODR into formal legal systems has emerged in recent years. Examples include the state of Utah in the USA¹⁶ and the state of British Columbia in Canada, where ODR has been formally integrated into the regular court system.¹⁷ The proposed mechanism of ODR in the UK, as outlined by the Civil Justice Council (CJC) in 2015, has also garnered international acclaim.

Validity of Agreement entered upon via ODR

Challenges surrounding the validity, evidentiary support, and enforceability of online arbitration agreements persist. Many national laws and international conventions still mandate that arbitration agreements must be in written form. According to Article 4(1) of the New York Convention, as traditionally construed, the party seeking enforcement must furnish an award that is in "writing," signed by a majority of the arbitrators, and is either the authenticated original or a duly certified copy. While electronic documents could technically fulfill these conditions if legally recognized as constituting writing

¹¹ Gaultier, T. (Year). Cross-border mediation: A new solution for international commercial dispute settlement?

¹² Habuka, H. and Rule, C. (2017), The Promise and Potential of Online Dispute Resolution in Japan, *International Journal of Online Dispute Resolution* (Issue 2) Pp. 74, 75-76

¹³ Kistemaker, L. (2021), *Rechtwijzer and Uitelkaar.nl*. Dutch Experiences with ODR for Divorce, *Family Court Review* (59) 2, Pp. 232-233

¹⁴ Schmidt-Kessen, Nogueira & Gamito, (2019) Success or Failure? —Effectiveness of Consumer ODR Platforms in Brazil and in the EU, *Copenhagen Business School Law Research Paper Series No. 19-17*

¹⁵ Lodder & Zeleznikow (2010), *Enhanced Dispute Resolution Through the Use of Information Technology*, Cambridge University Press.

¹⁶ Himonas, D. (2018), Utah's Online Dispute Resolution Program, *Dickinson Law Review* 122(3) Pp 875, 881

¹⁷ CRT (2015), *Civil Resolution Tribunal*, <https://civilresolutionbc.ca/>

and if digital signatures were employed to authenticate the sender and the content, these solutions do not align with the current wording and common interpretation of the New York Convention. An apparent resolution is the utilization of an "e-watermarked" printed version of the arbitral award, which could be signed by the arbitrator. The signed print-out, in this case, would unequivocally serve as the original award, providing a practical solution to the challenges posed by electronic documentation and signatures in the context of arbitration agreements.

Transplanting ODR Mechanism in the Landscape of Pakistan

Despite the unique characteristics of each country's approach to mediation regulation, there have been international endeavors to establish minimum standards for mediation and promote the use of this process. The United Nations Commission on International Trade Law (UNCITRAL) Conciliation Rules of 1980 marked the first multinational text outlining guidelines for out-of-court settlements with a third-party neutral. Subsequently, in 2002, UNCITRAL adopted a Model Law on International Commercial Conciliation. More recently, in 2008, the European Parliament and Council issued a directive addressing certain aspects of mediation in civil and commercial matters. These efforts reflect a global movement towards harmonizing and enhancing the standards and utilization of mediation across borders.

The implementation of Online Dispute Resolution (ODR) is a gradual procedure that requires cooperation among various stakeholders, including the government, legal community, technology providers, and the general public. In the initial stages, the Supreme Court of Pakistan must conduct thorough research to identify suitable cases for ODR, with a focus on small-value claims such as consumer disputes, landlord-tenant issues, and employment disputes. Additionally, the Supreme Court needs to collaborate with government agencies and educational institutions to develop a well-thought-out plan in anticipation of potential resistance and criticism from segments of society questioning the legitimacy and authenticity of ODR. A mandate from the Supreme Court would lend credibility and authority to this legally embedded technological process. The implementation of Online Dispute Resolution (ODR) is a gradual procedure that requires cooperation among various stakeholders, including the government, legal community, technology providers, and the general public. In the initial stages, the Supreme Court of Pakistan must conduct thorough research to identify suitable cases for ODR, with a focus on small-value claims such as consumer disputes, landlord-tenant issues, and employment disputes. Additionally, the Supreme Court needs to collaborate with government agencies and educational institutions to develop a well-thought-out plan in anticipation of potential resistance and criticism from segments of society questioning the legitimacy and authenticity of ODR. A mandate from the Supreme Court would lend credibility and authority to this legally embedded technological process.

Furthermore, a significant portion of the Pakistani population lacks the technological literacy needed to submit online applications for Online Dispute Resolution (ODR). Despite having access to mobile phones and the internet, this national-level scenario can be viewed as a form of "digital exclusion." While technology holds the potential to deliver prompt, cost-effective, and peaceful justice, the issue of digital exclusion poses a concern for the mass population in navigating a smart ODR system. Although there is no available empirical study specific to Pakistan on this matter, research conducted by JUSTICE in the context of the UK suggests that individuals with limited educational backgrounds are not only more susceptible to digital exclusion but may also be excluded from the traditional legal system. Challenges related to digital skills, access to modern communication devices and the internet, motivation, and confidence are significant factors. Nevertheless, adopting the "assisted digital" approach, as implemented in the courts of the UK and Wales, could be beneficial in addressing this digital exclusion in Pakistan.¹⁸ This method involves providing face-to-face interaction, web chat facilities, or telephone support to users, along with assistance from pro bono lawyers and social volunteers if additional practical help is needed. Experiences from other jurisdictions suggest that pro bono lawyers, volunteers, and NGOs dedicated to eliminating digital exclusion can contribute to reducing this issue in Pakistan. However, the primary

¹⁸ Susskind, R. (2019), *Online Courts and the Future of Justice*, Oxford University Press. P. 218

responsibility for addressing digital exclusion lies with the state. This involves investing in ICT-driven courts, offering technical support to users, initiating skills development programs, and implementing pilot projects to make the ODR service more user-friendly and accessible to all.¹⁹

Potential Hurdles in Transplanting ODR Mechanism and its Implementation

Cultural Obstacles

Before delving into an analysis of the cultural challenges associated with implementing Online Dispute Resolution (ODR) in Pakistan, it is imperative to establish a clear definition of culture for the purpose of this research. Culture, in this context, can be defined as "[t]he way of life, especially the general customs and beliefs, of a particular group of people at a specific time" (Cambridge Dictionary). The societal norms in Pakistan currently do not fully embrace the use of Information and Communication Technology (ICT) for various activities, including online purchases, service transactions, and dispute resolution. Regional characteristics emphasize personal relationships over objective treatment. For instance, instead of opting for online purchases from home, many Pakistani consumers find it more comfortable to visit physical shopping centers where they can interact face-to-face with sellers, physically inspect products, and enjoy social interactions with family and friends.²⁰ This cultural perspective significantly impacts e-commerce, Alternative Dispute Resolution (ADR), and ODR. Changing established habits is a formidable task, even when individuals are aware that certain practices may not be optimal. For example, the reluctance to abandon the habit of bringing a case to court, despite its laborious, costly, and time-consuming nature, is a notable aspect of this cultural inertia. In the literature, this reluctance is commonly referred to as litigiousness. It reflects the challenge of altering ingrained behaviors, even when individuals recognize the drawbacks of the existing system.²¹

The economic prosperity of a country plays a direct role in shaping access to professional services, including Alternative Dispute Resolution (ADR). Individuals facing challenges in meeting their basic needs, such as housing, nutrition, transportation, and education, may be hesitant to seek out professional services. This reluctance extends to the legal services sector. Conversely, an increase in prosperity is linked to higher life expectancy. Those who have overcome basic needs deficiencies often seek faster, more cost-effective, and less formal means to resolve their problems. As prosperity rises, people may allocate resources beyond their essential needs, contributing to an increased inclination towards the legal services sector and the utilization of ADR methods for dispute resolution. Moreover, the legal culture within a country is a crucial factor influencing the evolution of Online Dispute Resolution (ODR). Legal culture shapes public knowledge and behavioral patterns related to law and the legal system.²² Lawrence Friedman, a prominent advocate for the concept of legal culture, defines it as the ideas, values, attitudes, and opinions held by people in a society regarding law and the legal system.²³ Analyzing legal rules independently of culture is inadequate for understanding the outcomes in any legal system. The same legal rules can yield different results in different countries. For instance, in both the UK and Pakistan, pedestrians have priority on a pedestrian crossing. However, the safety of pedestrians at such crossings varies, with pedestrians generally safe in the UK but potentially at risk from cars in Pakistan, illustrating the influence of legal culture on the interpretation and enforcement of similar rules in different contexts. Hence, one can contend that specific legal regulations, aligned with the societal structure and culture of a particular state, may be interpreted and implemented differently in another jurisdiction. Consequently, the

¹⁹ JUSTICE (2018), Preventing Digital Exclusion from Online Justice, <https://justice.org.uk/ourwork/assisted-digital/>

²⁰ Khan, M. A., Zubair, S. S., & Malik, M. (2019). An assessment of e-service quality, esatisfaction and e-loyalty: Case of online shopping in Pakistan. *South Asian Journal of Business Studies*, 8(3), 283-302.

²¹ Greenhouse, C. J. (1989). Interpreting American litigiousness. In J. Starr & J. F. Collier (Eds.), *History and power in the study of law* (pp. 252-274). Cornell University Press.

²² Friedman, L. M. (1998). *The republic of choice: Law, authority, and culture*. Harvard University Press.

²³ Friedman, L. M. (2019). Is there a modern legal culture? *Passagens-International Review of Political History and Legal Culture*, 11(1), 4-23.

culture of nations, along with the attitudes and traits of individuals, plays a crucial role in comprehending how legal rules function and are enforced in each country.

Challenges w.r.t. Information Technology

In Pakistan, there is evident progress in the field of Information and Communication Technology (ICT). As per a recent report, the penetration rate stood at less than 30% in 2020, encompassing around 61 million users out of a total population of 223 million.²⁴ Over the past decade, from 2009 to 2019, there has been a substantial growth of over 200% in internet users in Pakistan.²⁵ Research conducted in December 2020 indicates that there are approximately 93 million broadband subscribers in the country, as reported by the Pakistan Telecommunication Authority. Undoubtedly, the increasing number of internet users in Pakistan and the expanding reach of the internet underscore the rapid development of ICT in the country. Additionally, the Pakistani government has actively sought to enhance user awareness and engagement with ICT initiatives. However, the worrisome thing is that internet usage in Pakistan is predominantly centered around social media and video platforms, as outlined in Table 1. The collective count of active social media users exceeds 45 million, constituting around 20% of the total population.

The willingness of individuals to engage in Online Dispute Resolution (ODR) methods is positively influenced by their confidence in e-mobile and e-commerce. Factors such as accessible and affordable internet access, along with high-quality broadband, can further support the adoption of ODR schemes.²⁶ To enhance the competence of computer users and ensure cyber literacy, particularly for professional purposes, practical training courses are essential. The Pakistani government plays a crucial role in the development and implementation of education programs aimed at providing nationwide access to computers and improving IT proficiency. While steps have been taken to provide internet access, there is still a need to address and reduce the existing digital divide. Additionally, effective participation in ODR procedures by disputants and neutral third parties assumes that all involved parties possess a sufficient level of digital knowledge. For example, a technologically adept party can fully leverage the ODR system, whereas another party, less familiar with online processes, may face challenges in navigating the system.

Disputants' Lack of Awareness

The initial step to harness the benefits of Alternative Dispute Resolution (ADR) involves recognizing the need for a mediator or arbitrator. While parties typically perceive themselves as best equipped to understand and resolve conflicts, the pressure of disputes can strain individuals and deplete their patience. In some cases, disputants may fail to acknowledge their diminished ability to manage the dispute effectively. In societies where there is a cultural reluctance to seek professional services, such as in Pakistan, parties may prefer resorting to legal action, leading to a reliance on lawyers for filing cases. Even if parties consider ADR methods, uncertainty about their effectiveness poses a significant obstacle. Overcoming these barriers requires comprehensive information on mediation or arbitration, including understanding the roles of mediators and arbitrators. Developing consumer ADR and Online Dispute Resolution (ODR) in Pakistan necessitates raising awareness and fostering an understanding of these concepts. If users are unaware of how to access ADR and ODR, the practicality of these methods diminishes. To enhance consumer confidence in ADR, there is a need for a balanced approach between confidentiality and transparency.

²⁴ Dataportal. (2021). Digital 2021: Pakistan. <https://dataportal.com/reports/digital-2021-pakistan>

²⁵ World Bank. (2021). Individuals using the Internet (% of population) – Pakistan.

<https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=PK>

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Establishing an ODR Platform in Pakistan could play a pivotal role in increasing awareness of ADR methods among consumers, thereby improving access to justice. This platform could encourage research into the effectiveness of ADR methods and, when ADR is not available, promote the use of online courts for dispute resolution. Increased consumer awareness is also expected to positively impact traders' understanding of arbitration boards.

Regulatory Obstacles

The advancement of Online Dispute Resolution (ODR) in Pakistan faces significant regulatory challenges, particularly in the realms of e-commerce, arbitration, and Alternative Dispute Resolution (ADR). While ODR is not confined to online transactions, its full potential can be realized in the field of e-commerce. The Pakistani government requires a comprehensive legal framework to instill trust in these domains. In the context of e-commerce, the UNCITRAL Model Law on Electronic Commerce of 1996 has been a reference point for multiple countries, including Pakistan. However, challenges arise as lawmakers seek to harmonize this statute with existing national laws, leading to unintended consequences. Despite efforts to regulate e-commerce through the Electronic Transaction Act of 2002, consumer protection in online shopping remains below the desired level. Arbitration in Pakistan is governed by the Arbitration Act of 1940 and the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act of 2011, which aligns with the New York Convention of 1958. However, the Act of 2011 focuses primarily on enforcement, necessitating comprehensive legislation to address domestic and foreign arbitration matters in the digital age.

Regarding ADR methods, the Alternative Dispute Resolution Act of 2017 provides a general framework without specific references to ADR and ODR. In the current landscape, there is no applicable national or international law in Pakistan explicitly regulating ODR. This necessitates a closer examination of existing arbitration and ADR laws to determine their applicability to ODR. Key considerations include issues related to online arbitration agreements, the e-seat or e-place of online arbitration, and applicable laws on online arbitration procedures. Addressing the regulatory challenge in ODR development requires further research on the effectiveness of introducing specialized rules for ODR or incentivizing legal participants, such as mediation centers, arbitration institutions, judges, and ODR administrators, to embrace and implement ODR practices.

Conclusion

Despite being in a stage of incomplete development, Online Dispute Resolution (ODR) has demonstrated its adaptive potential by accommodating national contexts. This adaptability is crucial, aiming not to blindly transplant dispute resolution systems from other jurisdictions but to tailor them to national cultural features and social limitations, particularly those related to Information and Communication Technology (ICT) infrastructure. In Pakistan, ODR has shown significant potential, offering an affordable and expeditious alternative to the often unsatisfactory traditional litigation system. It has the capability to efficiently and cost-effectively resolve disputes, marking a positive shift in the legal landscape.

Empirical research indicates that an effective consumer redress system, facilitated by ODR, has a favorable impact on user activity. If Pakistani manufacturers or service providers implement an efficient consumer redress system through ODR, it can enhance the overall user experience. This, in turn, may foster continued transactions between consumers and manufacturers, contributing to the establishment of consumer trust and the development of a reliable and competitive market. Effectively providing redress through ODR becomes a crucial element for manufacturers seeking to build consumer trust and create a conducive market environment.