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FUTURE OF MEDIATION IN INDIAN FAMILY LAW DISPUTES THROUGH ONLINE DISPUTE RESOLUTION (ODR)

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ABSTRACT

The rising number of family law disputes in India, combined with long delays in the family judicial system, underscores the need for more efficient and compassionate family dispute resolution mechanisms. Mediation has long been recognised as an effective method for resolving matrimonial conflicts, yet its use in India remains inconsistent due to limited awareness, voluntary participation, and infrastructural constraints. At the same time, the rapid expansion of digital platforms and the evolution of Online Dispute Resolution (ODR) present new opportunities to strengthen family justice delivery system.

This paper examines the future of mediation in Indian family law disputes through the emerging framework of ODR. It traces the evolution of family mediation in India from traditional community-based practices to its statutory recognition under the Family Courts Act, 1984 and Section 89 of the CPC. The study highlights international developments, including successful ODR-based mediation models in Australia, the United Kingdom, and the United States etc., illustrating their suitability for family matters.

Drawing from comparative analysis and India's growing digital ecosystem, the paper evaluates the potential of ODR to address challenges such as accessibility barriers, emotional distress, geographical limitations, and safety concerns in cases of strained relationships. It identifies critical risks power imbalance, confidentiality issues, digital literacy gaps and proposes safeguards such as screening for domestic violence, hybrid models combining online and offline mediation, trained mediators, and uniform procedural guidelines.

The paper concludes that ODR-mediated family dispute resolution can significantly reduce court burden, enhance participation, and promote amicable settlements, provided that it is supported by robust technology, legislative clarity, and a trauma-informed mediation framework. With proper safeguards and phased implementation, ODR can shape the future of

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family justice in India by offering a more humane, timely, and accessible pathway to resolving matrimonial disputes.

INTRODUCTION

Family law disputes in India have risen sharply, placing significant strain on Family Courts and leading to delays in justice. Issues such as divorce, maintenance, and child custody involve intense emotional stakes, yet are often addressed through adversarial litigation that prolongs stress and hardship. This situation underscores the need for quicker, less confrontational, and more responsive dispute resolution mechanisms in family matters.

Mediation has long been recognised as an effective alternative to litigation in matrimonial and family disputes. It provides a structured yet flexible platform where parties can communicate openly, understand each other's concerns, and work towards mutually acceptable solutions with the assistance of a neutral third party. Indian law also acknowledges the importance of mediation in family matters. The Family Courts Act, 1984³ encourages courts to make sincere efforts to settle disputes through counselling and mediation, and Civil Procedure Code⁴ provides for alternative dispute resolution mechanisms.

In *K. Srinivas Rao v. D.A. Deepa*⁵, the Hon'ble Supreme Court emphasized the need for early intervention through counselling and mediation in matrimonial disputes to prevent trivial issues from escalating into irreparable conflicts. The Court recognized mediation as particularly suitable for sensitive matters such as child custody and maintenance, and encouraged pre-litigation mediation through mediation centres as a proactive and humane approach to resolving family disputes.

However, in practice, mediation in family disputes remains largely voluntary and unevenly implemented. Limited awareness, lack of trained mediators, infrastructural constraints, and geographical barriers often prevent parties from effectively accessing mediation services, thereby reducing its overall impact on the justice delivery system.

Empirical studies conducted in India consistently demonstrate the strong relevance and effectiveness of mediation in resolving family and matrimonial disputes. Research from

³ Family Courts Act, 1984, § 9 (India).

⁴ Code of Civil Procedure, 1908, § 89 (India).

⁵ *K. Srinivas Rao v. D.A. Deepa*, A.I.R. 2013 S.C. 2176 (India).

Maharashtra⁶ confirms that reconciliation, counselling, and mediation play a crucial role in delivering speedy and meaningful justice through Family Courts, even where lawyers are involved. Socio-legal analysis from Visakhapatnam⁷ further shows that although matrimonial disputes are increasingly handled through adversarial litigation, Indian law already supports mediation and counselling, with courts actively encouraging amicable settlement to preserve family harmony. Practical evidence from Family Dispute Resolution Clinics⁸ reveals that early-stage mediation, especially before criminal proceedings, can resolve nearly ninety percent of family disputes, significantly reducing emotional trauma and judicial burden. Large-scale evaluations of court-connected mediation centres⁹ across major Indian cities also indicate high settlement rates in matrimonial matters, particularly divorce cases. Taken together, these studies establish that mediation is not only legally supported but practically effective, humane, and capable of addressing the emotional and relational complexities of family disputes, making it a necessary and future-oriented mechanism for family justice in India.¹⁰

At the same time, India is witnessing rapid digital transformation in governance and judicial administration. The expansion of e-courts, virtual hearings, and online legal services has demonstrated that technology can play a meaningful role in improving access to justice. In this context, Online Dispute Resolution (ODR) has emerged as a promising tool that combines mediation with digital platforms to resolve disputes remotely.¹¹ ODR offers particular advantages for family law disputes, where physical distance, emotional discomfort, or safety concerns may discourage direct interaction between parties. By enabling mediation through secure online platforms, ODR has the potential to make family dispute resolution more accessible, cost-effective, and less emotionally taxing.

Internationally, several jurisdictions have already integrated technology into family mediation processes with positive results. Countries such as Australia, the United Kingdom, and the

⁶Atul Dattajirao Kurane, *Study of Alternative Dispute Resolution Approach Towards Family Dispute Settlement with Special Reference to the State of Maharashtra* (Nov. 2021).

⁷N. Bhagya Lakshmi, *Matrimonial Dispute Resolution in India Through Alternative Dispute Resolution Methods: A Socio-Legal Study with Reference to the Visakhapatnam Family Court* (2018).

⁸Ritu Gautam, Pradeep Kulshrestha & Avinash Krishan Goswami, *Mediation and Family Dispute Resolution Mechanism: A Case Study on Clinical Legal Education*, 20 *Elementary Education Online* 2490, 2496 (2021).

⁹Alok Prasanna Kumar et al., *A Report on Court-Connected Mediations* (Dec. 2016), https://vidhilegalpolicy.in/wp-content/uploads/2019/05/26122016_StrengtheningMediationinIndia_FinalReport.pdf.

¹⁰Sahil Kapoor, *Beyond Courtrooms: A Comparative Study of Mediation and Litigation in Matrimonial Dispute Resolution*, 1 *Int'l J. Disp. Resol.* 1 (2025), https://ijdr.co.in/wp-content/uploads/2025/08/IJDR_P1.pdf.

¹¹NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (2021).

United States have adopted structured mediation frameworks, including online and hybrid models, to resolve family disputes efficiently while maintaining procedural fairness. These experiences suggest that technology-driven mediation, when supported by proper safeguards, can reduce court burdens and promote amicable settlements. However, the application of such models in India requires careful consideration of socio-legal realities, including digital literacy, power imbalances between parties, and the need to protect vulnerable individuals from coercion or abuse.

This paper examines the future of mediation in Indian family law disputes through the framework of Online Dispute Resolution. It seeks to explore whether ODR-based mediation can address the existing limitations of traditional family mediation in India while preserving the core values of fairness, voluntariness, and protection of rights. By analysing the evolution of family mediation in India, studying international practices, and assessing the opportunities and risks associated with ODR, the paper aims to contribute to the ongoing discussion on reforming family dispute resolution. Ultimately, it argues that with appropriate safeguards, institutional support, and legislative clarity, ODR can play a significant role in shaping a more humane, timely, and effective family justice system in India.

EVOLUTION OF MEDIATION IN INDIAN FAMILY LAW

The idea of resolving family disputes through dialogue and consensus is not new to Indian society. Long before formal courts existed, family and matrimonial disputes were commonly settled through community elders, panchayats, and respected intermediaries. These traditional practices focused on reconciliation, preservation of family relationships, and social harmony rather than punishment or strict legal enforcement. Over time, as the legal system became more formalised, adversarial litigation replaced these community-based mechanisms. However, the emotional and social nature of family disputes made it increasingly clear that conventional court procedures were often ill-suited to address matrimonial conflicts effectively.

The constitutional foundation for alternative dispute resolution, including mediation, can be traced to Constitution of India¹², which guarantees the right to life and personal liberty. The Supreme Court has interpreted this right to include access to fair, just, and speedy justice. Lengthy litigation in family matters not only delays justice but also causes severe emotional,

¹² INDIA CONST. art. 21.

financial, and psychological hardship to parties. To address these concerns, the legislature gradually incorporated alternative dispute resolution mechanisms into various statutes, recognising mediation as a tool to reduce delays, ease court burden, and promote meaningful justice.

Personal laws governing marriage in India also reflect an early emphasis on reconciliation. Under the Hindu Marriage Act, 1955, courts are required to make efforts to reconcile the parties before granting matrimonial reliefs such as divorce or judicial separation. Sections 23(2) and 23(3)¹³ place a responsibility on courts to attempt reconciliation and even adjourn proceedings to facilitate such efforts. This reflects the traditional view of marriage as a sacrament rather than a purely contractual relationship. Similar provisions exist under the Special Marriage Act, 1954¹⁴, where courts are duty-bound to explore reconciliation before granting relief. These statutory provisions demonstrate that mediation and conciliation have long been embedded within Indian family law, though largely in an advisory rather than mandatory form.

A major institutional development in family dispute resolution came with the enactment of the Family Courts Act, 1984. The Act was introduced to create specialised courts that adopt a less formal, more humane, and conciliatory approach to family disputes. Family Courts are required to prioritise settlement and reconciliation before proceeding with trial and are empowered to involve counsellors, psychologists, social workers, and medical experts. Section 9¹⁵ of the Act clearly mandates courts to make sincere efforts to settle disputes, while Section 12¹⁶ allows assistance from welfare professionals. Despite these progressive provisions, the effectiveness of mediation under the Family Courts Act has often depended on the initiative of individual judges and the availability of trained counsellors, resulting in inconsistent implementation across states.

The evolution of mediation in India gained further momentum with the introduction of Section 89 of the Code of Civil Procedure, 1908. This provision formally empowered courts to refer disputes to alternative dispute resolution mechanisms, including mediation, conciliation, and Lok Adalats. Additional procedural support was provided through related

¹³ Hindu Marriage Act, 1955, §§ 23(2)–(3) (India).

¹⁴ Special Marriage Act, 1954, §§ 34(2)–34(3), No. 43, Acts of Parliament, 1954 (India).

¹⁵ The Family Courts Act, No. 66 of 1984 (India).

¹⁶ *Ibid.*

provisions such as Order X, Order XXIII, and Order XXXII-A¹⁷, which emphasise settlement in family-related disputes. These legal developments marked a shift towards institutionalising mediation within the judicial process, including in matrimonial matters. However, mediation continued to function largely as a discretionary option rather than a structured or compulsory process.

Parallel to court-based mediation, Lok Adalats emerged as an accessible and cost-effective forum for resolving matrimonial disputes, particularly through mutual consent divorces and negotiated settlements. Rooted in indigenous dispute resolution traditions, Lok Adalats have helped reduce litigation burdens and provided quicker resolutions, especially for economically weaker sections. Their success further reinforced the value of non-adversarial mechanisms in family law.

Mediation has a limited and cautious role under the Protection of Women from Domestic Violence Act, 2005, where counselling or settlement may be considered in appropriate cases. Courts have stressed that such measures must not dilute the seriousness of domestic violence or compromise the safety and autonomy of women.

The Mediation Act, 2023 marks a major development by providing a comprehensive statutory framework for mediation in India, including pre-litigation, online, and community mediation. It ensures procedural clarity, confidentiality, and institutional support, aligning mediation with India's digital shift and making family dispute resolution more accessible and flexible.

The evolution of mediation in Indian family law shows a shift from informal reconciliation to formal statutory recognition, though its voluntary and uneven application has limited its impact. Recent developments, particularly the Mediation Act, 2023, signal a move toward strengthening mediation and pave the way for technology-driven and online dispute resolution in family disputes.

UNDERSTANDING ONLINE DISPUTE RESOLUTION (ODR) IN FAMILY LAW

Online Dispute Resolution (ODR) refers to the use of digital technology to facilitate the resolution of disputes through negotiation, mediation, conciliation, or arbitration. It builds

¹⁷ The Code of Civil Procedure, No. 5 of 1908 (India).

upon traditional Alternative Dispute Resolution mechanisms by integrating online platforms that enable parties to communicate, negotiate, and settle disputes without the need for physical presence. In India, ODR has gained recognition as a practical response to delays, accessibility barriers, and rising litigation costs, particularly after increased reliance on digital systems following judicial and administrative reforms. The NITI Aayog's ODR Policy Plan highlights ODR as a means to improve access to justice, reduce pendency, and provide flexible dispute resolution mechanisms suited to India's diverse socio-economic conditions.¹⁸

Unlike traditional ADR, which usually requires face-to-face meetings and physical infrastructure, ODR relies on technology-enabled processes such as video conferencing, secure online communication platforms, and document-sharing systems. Traditional ADR often involves synchronous participation, whereas ODR allows both real-time interaction and asynchronous communication, enabling parties to engage at their own pace. This distinction is particularly relevant in family disputes, where emotions, safety concerns, and geographical separation often make physical meetings difficult or undesirable. ODR thus shifts the focus from procedural formality to accessibility, convenience, and participant comfort.¹⁹

The core components of ODR include online communication platforms that allow structured exchange of information, video-based mediation that replicates in-person interaction, and asynchronous negotiation tools that enable parties to reflect and respond without immediate pressure. These components support confidentiality, continuity of dialogue, and efficient documentation of progress and settlement terms. According to the NITI Aayog policy framework, such tools can be designed to ensure data security, neutrality, and procedural fairness while maintaining flexibility in dispute resolution processes.²⁰

ODR has been found to be particularly suitable for family disputes due to its ability to reduce hostility and emotional stress. Studies on online family mediation indicate that ODR allows parties to remain physically separated in situations involving domestic conflict or abuse, thereby enhancing safety while still enabling meaningful dialogue. It also reduces travel and litigation-related costs, which is especially important in divorce and maintenance proceedings where financial resources are already strained. Additionally, ODR facilitates quicker

¹⁸NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 9–12 (2021).

¹⁹Ibid.

²⁰Ibid.

communication and allows parties to track progress and proposals more efficiently than traditional methods.²¹

Family disputes require a different ODR design because they involve long-term relationships, emotional vulnerability, and, in many cases, the welfare of children. Unlike commercial disputes, family conflicts demand a trauma-informed and child-sensitive approach. Online mediation environments can provide neutral spaces that help reduce parental conflict, improve communication, and prevent children from being used as intermediaries. Research has shown that structured online collaboration tools can assist parents in organising discussions, maintaining consistency in parenting decisions, and focusing on the best interests of the child.²² These features make ODR a promising mechanism for future family dispute resolution, provided it is supported by trained mediators, appropriate safeguards, and clear procedural guidelines.

INTERNATIONAL EXPERIENCES WITH ODR-BASED FAMILY MEDIATION

Australian: International experience shows that courts and mediators around the world have moved quickly to combine mediation with online tools, and that these efforts offer useful lessons for India. In Australia, family law has long required parties to attempt dispute resolution before certain court steps, and the national framework actively supports Family Dispute Resolution (FDR). Courts and legal services encourage participation in FDR to reduce acrimony and resolve parenting disputes more quickly; during the past decade Australian practitioners have brought technology into that practice by offering video conferencing and remote intake, which has helped keep mediation accessible for geographically distant parties and reduced travel costs and delay. At the same time, Australian experience highlights the need for careful screening: where family violence or coercion is present, mediators must adopt safety protocols or decline joint online sessions and arrange separate protected processes for the vulnerable party.²³

The United Kingdom: provides a complementary example through its system of Mediation Information and Assessment Meetings (MIAMs) and increasingly available online mediation platforms. MIAMs are brief, informative sessions that must generally be offered before

²¹ Melissa Conley Tyler & Mark McPherson, *Online Dispute Resolution and Family Disputes*, 12 J. Fam. Stud. 165, (2006).

²² *Ibid.*

²³ Family Law Act 1975 (Cth) pt VII, s 60I (Austl.).

certain family court applications; they are designed to explain mediation, assess suitability, and identify safety concerns. The UK experience shows that a short, mandatory informational step (a MIAM) can increase awareness and referrals to mediation without forcing settlement. Adoption of remote MIAMs and online mediation during the COVID period broadened reach and created practical precedents for a hybrid model—combining an initial online MIAM with later face-to-face or video mediation when appropriate. The UK demonstrates that an early, low-burden informational requirement, paired with remote options, can boost participation while preserving safeguards for at-risk parties.²⁴

In the United States, ODR has been integrated into court systems in diverse ways. Some family courts and family services units now offer virtual mediation orientations, remote intake, and video mediation sessions, often as a response to geographic barriers or pandemic restrictions. Court-annexed online mediation programs (for example, virtual orientations and video mediations for custody and visitation matters) have shown they can maintain case momentum when in-person meetings are impractical. US experience also stresses legislative and procedural clarity: courts that formalized procedures for remote mediations, provided technology support, and ensured enforceable post-mediation agreements achieved higher follow-through and user satisfaction.²⁵

Across these jurisdictions several consistent lessons emerge that matter for India. First, online mediation significantly improves accessibility. Where travel distances, work commitments, or caring responsibilities make in-person attendance difficult, ODR lowers the logistical barrier and increases the chance that parties will engage early. Second, ODR brings flexibility: asynchronous tools (secure portals for document exchange, proposal drafting, and private messaging) allow parties time to reflect and to share information without the pressure of an immediate face-to-face meeting. This can be particularly helpful for parents working irregular hours or living apart. Third, and crucially, jurisdictions that have successfully used ODR for

²⁴ See Ministry of Justice (UK), *Mediation Information and Assessment Meetings (MIAMs)*, HM Courts & Tribunals Serv. (n.d.), <https://www.gov.uk/government/> (explaining the statutory requirement of MIAMs and adaptations for online processes); Family Mediation Council, *MIAMs and Mediation: Guidance* (n.d.), <https://www.gov.uk/government/>; Family Mediation Council, *Remote Mediation Guidance* (n.d.), <https://www.familymediationcouncil.org.uk/> (providing an overview of MIAMs and remote mediation practice).

²⁵ See National Center for State Courts, “Online Dispute Resolution,” <https://www.ncsc.org/> (discussing court ODR initiatives and virtual mediation), and practical examples such as California county family court online mediation orientations (e.g., Modoc Cty. Superior Court, “Online Mediation Orientation,” <https://www.modoc.courts.ca.gov/>). For analysis of pandemic-era shifts to virtual mediation and lessons for family courts, see K.J. Paulson, “Mediation in the COVID-19 Era: Is Online Practice the Wave of the Future?,” *Stanford Law Review* (2022).

family cases put safeguards at the centre: robust intake screening for domestic violence, the option of separate private (caucus) sessions, trauma-aware mediator training, clear confidentiality rules, and supported digital access for those who lack literacy or devices.

At the same time, the international record warns against simple transplantation of technology without supportive systems. Practitioners note that power imbalances can be magnified online if one party controls the environment (for example, controlling access to a device or monitoring communications). Similarly, confidentiality and data security must be guaranteed so sensitive family information is not compromised. Another recurring theme is the importance of a hybrid design: purely online mediation is helpful in many cases, but serious safety concerns or highly contested matters often require either face-to-face sessions or carefully structured, mediated processes with additional safeguards (e.g., separate rooms, safety checklists, and presence of support persons). Fourth, where courts mandate a mediation step (or a MIAM) as a precondition, careful drafting of exemptions and clear judicial guidance are needed to avoid compelling mediation in situations where it would endanger a party or be counterproductive.

For India, these comparative insights point to a practical path forward. A phased ODR rollout for family mediation—beginning with informational MIAM-style online sessions, followed by optional full mediations (video or hybrid), and supported by robust screening, trauma-informed training, and secure technology platforms—offers a balanced way to increase access while protecting vulnerable parties. International experience therefore suggests that ODR can be a powerful tool for family justice if implemented with procedural safeguards, mediator training, and a hybrid mindset that keeps human safety and dignity at the centre.

INDIA'S EMERGING ODR ECOSYSTEM IN FAMILY DISPUTES

India's Online Dispute Resolution (ODR) framework has grown significantly, especially for consumer and commercial disputes, reflecting strong policy support for digital dispute systems. The NITI Aayog's ODR Policy Plan for India envisions technology-enabled dispute resolution as a means to improve access to justice across sectors.²⁶

²⁶NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 9–12 (2021).

The concept of ODR in India is currently more active in domains like e-commerce, payment disputes, and securities complaints, where online portals and mechanisms such as SEBI's dispute resolution options provide faster and cost-efficient processes.²⁷ Legislative reform through the Mediation Act, 2023 formally recognises online mediation, allowing mediation to be conducted electronically at any stage with parties' consent and thereby creating a legal basis for ODR in India.²⁸

However, family law disputes have not yet seen significant ODR adoption despite the presence of legal recognition for online mediation. Most family disputes in India are still mediated in person through court-annexed centres, and the routine use of ODR platforms in family law remains limited.²⁹

During the COVID-19 pandemic, Indian courts and ADR centres experimented with virtual hearings and online mediation, showing that remote processes can work operationally. This experience highlighted both the potential and the challenges of applying online tools to sensitive family contexts.³⁰

The ODR ecosystem is supported by digital consumer dispute portals such as E-Daakhil, which allow online filing and resolution of complaints under the Consumer Protection Act, showcasing how online tools can handle dispute intake and processing without court attendance.³¹

Despite institutional recognition, practical uptake in family disputes is still nascent because online mediation services have been mostly used for commercial and consumer cases, and there is a lack of targeted ODR platforms tailored specifically for matrimonial disputes.³²

²⁷ See SEBI's development of an ODR mechanism for securities disputes as part of technology-enabled dispute processes; India's Securities and Exchange Board Provides a Gateway to Future Dispute Resolution, Am. Bar Ass'n (Aug. 15, 2024), https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-august/indias-securities-exchange-board-provides-gateway-future-dispute-resolution/.

²⁸ The Mediation Act, 2023, No. 32 of 2023 (India), <https://egazette.gov.in/WriteReadData/2023/248775.pdf> see also "Online Mediation (Section 30)," which allows mediation by electronic means with consent.

²⁹ See Legal blogs and ADR commentators noting institutional mediation still operates predominantly offline in family contexts; e.g., The Role and Rise of Mediation Under the Mediation Act, 2023, ATL Legal (2025).

³⁰ See Press Information Bureau, "Online Dispute Resolution," explaining that high-level committee on ODR was formed to promote ODR in India, and that virtual dispute resolution gained prominence in COVID-19 workflows.

³¹ E-Daakhil (Online Consumer Dispute Portal) News & Wikipedia, <https://en.wikipedia.org/wiki/E-Daakhil>.

³² See policy commentary noting ODR's prominence in consumer and other sectors but limited application in family law to date; *Online Dispute Resolution in India*, OnlineLegalIndia (2025). <https://www.onlinelegalindia.com/blogs/online-dispute-resolution-in-india/>.

Experts note that adapting ODR for family law will require improved digital infrastructure, mediator training, confidentiality safeguards, and public awareness to ensure sensitive personal matters are handled appropriately in the digital environment.³³

India's ODR ecosystem is developing rapidly with strong legal and policy foundations, but its application to family law remains behind other areas of dispute resolution. Future development will depend on bridging the gap between formal recognition and operational usage in matrimonial and family ADR.³⁴

CHALLENGES AND RISKS OF ODR IN FAMILY MEDIATION

Online dispute resolution (ODR) can make family mediation more accessible, but it brings important risks that must be honestly addressed before wide adoption. The first is the problem of power imbalance: where one spouse is economically, socially, or psychologically dominant, an online platform can deepen rather than reduce that imbalance. A controlled room with a mediator who can observe body language and intervene is not easily replicated online; asynchronous chat, text, or poorly moderated video sessions can allow a stronger party to steer negotiations or apply pressure without the mediator noticing.³⁵

Domestic violence and coercion pose a particularly grave risk in ODR family work. When a victim shares the same dwelling as an abuser, participating in an online mediation session can expose them to monitoring, intimidation, or retaliation. Screening for safety, private spaces, secure channels and immediate referral routes to shelter or protection services are necessary, but those safeguards are harder to implement remotely than in a court or clinic setting.³⁶

The digital divide, unequal access to devices, reliable internet, and private spaces, is a real barrier in India. Rural households, women, and lower-income litigants often lack stable broadband or a secure private device. Asking such parties to use ODR risks excluding those

³³ See Juris Centre, *Online Dispute Resolution as a Tool for Legal Inclusion*, discussing infrastructure and awareness challenges for ODR in India. <https://juriscentre.com/2025/08/09/online-dispute-resolution-as-a-tool-for-legal-inclusion-breaking-barriers-to-justice/>.

³⁴ See Vidhi Centre policy discussion on the future of ADR and ODR in India, recommending phased approaches and capacity development. <https://vidhilegalpolicy.in/research/the-future-of-dispute-resolution-in-india/>.

³⁵ See NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Oct. 2021) (noting the different dynamics of online dispute forums and the need for platform design to address fairness), <https://niti.gov.in/sites/default/files/2021-10/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>.

³⁶ See World Health Org., *Violence Against Women* (Nov. 2021) (discussing risks to victims and the need for protective measures), <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

who most need equitable access to justice, or forcing them into lower-quality participation (via a phone in a public place, for example). Any ODR rollout must account for infrastructure gaps and provide alternatives or facilitation centres.³⁷

Related to access is digital literacy - Even where internet connections exist, many users are not familiar with video platforms, document-signing tools, or privacy settings. This leads to confusion, mistakes (for example, revealing sensitive files), and unequal negotiation power between tech-savvy and non-tech users. Training, simple interfaces, and assisted sessions (a facilitator present at a local centre) can mitigate the problem but add cost and complexity.³⁸

Confidentiality and data protection are technical and legal challenges. Family mediation depends on trust and privacy; moving sessions online means personal conversations, documents, and audio-video files will be stored or transmitted electronically. That raises questions about data jurisdiction, encryption, retention policies, and third-party platform vulnerabilities. India's emerging data law environment and recent legislation are relevant, but platform-level safeguards and binding policies for mediators and providers are needed to maintain confidentiality.³⁹

Enforceability of mediated outcomes is another concern. When a mediated settlement is reached remotely, parties must be able to convert it into an enforceable instrument whether a court order or registered settlement, without extra friction. Unclear or cumbersome post-mediation legal steps can discourage compliance. Designing digital workflows that produce court-ready settlement documents and clear registration paths is essential for ODR to deliver practical results.⁴⁰

Quality and training of mediators for online family work are currently insufficient. Mediating family disputes online requires additional skills managing remote dynamics, detecting coercion without physical cues, and using platform tools securely. There is a

³⁷ See World Bank, *Individuals using the Internet (% of population)* — India, World Bank Data, <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=IN> (showing internet access gaps relevant to inclusion).

³⁸ See Telecom Regulatory Authority of India, *Performance Indicators Report 2023–24* (highlighting connectivity and user experience factors that affect digital access), <https://www.trai.gov.in>.

³⁹ See The Mediation Act, No. 32 of 2023, § on confidentiality and settlement registration, Gazette of India, <https://egazette.gov.in/WriteReadData/2023/248775.pdf>; see also The Digital Personal Data Protection Act, 2023 (setting the data protection baseline), <https://legislative.gov.in>.

⁴⁰ See The Mediation Act, No. 32 of 2023, (provisions on format and registration of settlement agreements).

shortage of mediators trained specifically for ODR in family law, and scaling up such training while ensuring consistent accreditation will take time and resources.⁴¹

Platform design and procedural fairness matter. Poorly designed user interfaces, confusing workflows, and rigid time limits can disadvantage vulnerable parties. Procedural safeguards (time for private caucuses, verified interpreter services, easy pause/exit options, and mandatory safety checks) must be built into ODR platforms used for family mediation so that the process remains fair and humane.⁴²

Finally, **institutional and cultural resistance** from lawyers, judges, and even some parties can undermine ODR uptake. Concerns about legitimacy, the sanctity of family decision-making, and perceived loss of control over process can reduce engagement. Pilot programs, stakeholder consultations, and rigorous evaluation will be necessary to build confidence among courts, service providers, and users.⁴³

In short, ODR offers real promise for family mediation, but those benefits will only follow if implementation addresses these risks head-on: screening and safety protocols, robust privacy and data rules, accessible technology or assisted access points, mediator training, enforceable digital settlement pathways, and carefully designed platforms that protect weaker parties. A phased, rights-focused rollout with constant monitoring and clear exceptions (for example, cases with active domestic violence) is the prudent path forward.⁴⁴

PROPOSED FRAMEWORK FOR INTEGRATING ODR INTO FAMILY MEDIATION IN INDIA

A structured and cautious framework is required to integrate Online Dispute Resolution (ODR) into family mediation in India, keeping in mind the sensitive nature of matrimonial

⁴¹ See NITI Aayog, *ODR Policy Plan* (recommendations on capacity building and accreditation for ODR practitioners), <https://niti.gov.in/sites/default/files/2021-10/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>.

⁴² See Vidhi Centre for Legal Policy, Alok Prasanna Kumar et al., *A Report on Court-Connected Mediations* (Dec. 2016) (observing the practical issues in court-connected mediation and the need for procedural safeguards), https://vidhilegalpolicy.in/wp-content/uploads/2019/05/26122016_StrengtheningMediationinIndia_FinalReport.pdf.

⁴³ See Michelle Deis, *California's Answer: Mandatory Mediation of Child Custody and Visitation Disputes*, 1 Ohio St. J. Disp. Resol. 155 (1985) (lessons on institutional resistance and the role of courts in shaping mediation uptake), https://kb.osu.edu/bitstream/handle/1811/75845/OSJDR_V1N1_149.pdf.

⁴⁴ See NITI Aayog, *ODR Policy Plan* (proposing phased pilots, monitoring and rights-based safeguards for ODR adoption), <https://niti.gov.in/sites/default/files/2021-10/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>.

disputes. The proposed model should not replace existing systems abruptly, but rather complement and strengthen them through a phased and rights-sensitive approach.

A hybrid mediation model should underpin ODR in family disputes, allowing parties to choose online, offline, or blended processes based on safety, comfort, and access to technology. This flexibility preserves the benefits of online mediation while ensuring in-person processes remain available where vulnerability or emotional complexity requires it.

Mandatory pre-litigation ODR orientation should be introduced in family disputes to familiarise parties with mediation, ODR processes, legal implications, and safeguards without compelling settlement. Such orientation can promote informed decision-making, reduce adversarial approaches, and encourage early resolution.

A robust screening mechanism is essential to identify cases involving domestic violence, coercion, or power imbalance before and during mediation. Where risks exist, matters must be excluded from mediation or shifted to protected formats, with the safety of women and children as the overriding priority.

Strengthening digital infrastructure in Family Courts is essential for effective ODR integration, including secure video-conferencing, document-sharing systems, and dedicated mediation spaces. Institutional support and technical assistance must ensure confidentiality, reliability, and accessibility rather than dependence on unregulated private platforms.

Specialised training for mediators is crucial for effective ODR-based family mediation. Mediators must be equipped with family law knowledge, mediation skills, technological competence, and trauma-informed and child-sensitive approaches. Clear protocols should govern informed consent, confidentiality, and digital data management, ensuring that online mediation remains voluntary, secure, and capable of producing enforceable settlements.

Pilot ODR programs should be launched in selected metropolitan Family Courts and refined through monitoring and feedback before wider implementation. Overall, integrating ODR into family mediation requires a balanced framework combining flexibility with safeguards, skilled professionals, institutional support, and phased expansion to ensure accessibility, safety, and fairness in matrimonial dispute resolution.

FUTURE ROADMAP FOR ODR-BASED FAMILY MEDIATION IN INDIA

The future of ODR-based family mediation in India depends on a balanced approach that combines innovation with caution. Family disputes involve emotional vulnerability, power imbalances, and issues of safety, which makes it unsuitable to adopt online mediation in a sudden or uniform manner. A gradual and well-structured roadmap is therefore necessary to ensure that ODR enhances access to justice while safeguarding the rights and well-being of all parties involved.

In the initial phase, ODR should be introduced in a limited and controlled manner for suitable categories of family disputes. These may include matters such as mutual consent divorce, amicable maintenance arrangements, parenting plans, and post-divorce settlements where both parties are willing to participate. At this stage, ODR should operate as a supportive and optional mechanism rather than a mandatory one. This would allow courts and mediators to assess its practical effectiveness, identify risks, and understand the emotional dynamics of online family mediation.

Pilot projects should be implemented in selected urban Family Courts where digital infrastructure, trained mediators, and awareness among litigants are relatively stronger. These pilot initiatives can help evaluate settlement outcomes, user satisfaction, safety concerns, and time efficiency. The findings from such pilots would provide valuable data for refining procedures and determining the scope of wider implementation.

A key aspect of the future roadmap is the integration of ODR platforms with the existing e-Courts system. Such integration can facilitate smooth case referrals, online scheduling, secure document sharing, and proper recording of mediated settlements. This would improve administrative efficiency while maintaining the confidentiality of mediation proceedings.

Building public trust is equally important. Many litigants still associate justice with physical courtrooms. Awareness programs involving legal aid services, family court counselors, and civil society organisations can help explain the benefits, safeguards, and reliability of ODR-based mediation. With clear policy support, trained mediators, and phased implementation, ODR can gradually become a meaningful part of India's family justice system, offering a more humane, accessible, and efficient path to dispute resolution.

CONCLUSION

The growing number of family law disputes in India and the persistent delays in family courts reveal a serious gap between the need for timely justice and the capacity of the existing system. Matrimonial conflicts often involve deep emotional distress, children's welfare, and long-term family relationships. When such disputes are handled only through adversarial litigation, they tend to aggravate hostility, prolong suffering, and weaken the possibility of reconciliation or cooperative separation. Despite statutory encouragement under Indian law, mediation in family disputes remains inconsistently applied and largely dependent on judicial discretion, limiting its overall impact.

This paper has examined how ODR can strengthen the role of mediation in Indian family law by addressing practical barriers such as distance, time constraints, emotional pressure, and court congestion. ODR offers a flexible and accessible platform that allows parties to engage in dialogue without the intimidating atmosphere of courtrooms. When designed carefully, ODR-based mediation can create a safer and more controlled environment for communication, especially in cases where physical interaction may increase stress or conflict.

At the same time, the study recognizes that efficiency cannot come at the cost of fairness or safety. Family disputes are not ordinary civil conflicts, and any move towards online mediation must be accompanied by strong safeguards. Issues such as power imbalance, domestic violence, digital exclusion, confidentiality, and informed consent require special attention. ODR should therefore function within a framework that prioritizes screening mechanisms, trained mediators, child-sensitive practices, and clear opt-out provisions where mediation is inappropriate.

Mediation, whether conducted online or offline, represents a more humane form of justice in family matters. It shifts the focus from blame and punishment to dialogue, understanding, and problem-solving. ODR does not replace this human element; rather, it has the potential to enhance it by making mediation more accessible, less intimidating, and better suited to modern social realities. Technology, when used as a supporting tool and not as a substitute for human judgment, can help restore dignity and agency to parties navigating family breakdowns.

ODR has the capacity to become a transformative tool for Indian family justice if it is introduced gradually, regulated carefully, and guided by the core values of mediation. By balancing efficiency with protection of rights, and innovation with sensitivity, ODR-based family mediation can contribute to a justice system that is not only faster, but also more compassionate, inclusive, and responsive to the lived realities of families in India.