Online Dispute Resolution

What is the issue?

- The pendency of over 40 million cases in our judicial system remains a focal point for reform and reduction.
- This pendency makes a strong case for online dispute resolution (ODR).

Why are these cases pending?

- Nearly a third of these cases have been pending for 3 to 30 years.
- They are pending due to resource-dwindling litigation, case adjudication and difficulty in consensus resolution.
- There are barriers to conflict resolution for the common man, because of,

a. Lack of access to courts and representation, or
b. Entry-level barriers such as linguistic or technology challenges.

- All of this is routinely brought up by those who are impacted by it.
- With the pandemic disrupting basic services delivery, the discussion is only going to expand in scope and volume.

What is the situation now?

- Around 40 million cases are pending cases at the Supreme Court, High Courts and the district courts.
- This seems more than significant, except that the courts are performing in an exemplary fashion to dispose of cases.
- Around 25 lakh cases were heard virtually by courts across the country in the wake of the Covid-19 pandemic.
- However, the key statistic is that the number of cases filed surpassed the disposal capacity.
- The pandemic has, of course, accelerated this trend.

What is the case for ODR?

- Given the escalating pendency, it is important that alternative methods for avoiding, containing and resolving disputes are adopted.
- The access to justice isn’t just about having the means to resolve disputes but also ensuring that the means are efficacious and expeditious.
- Keeping this context in mind, the growing focus on ODR in India is not

without reason.

What is the significance of ODR?

- ODR aligns with the current socio-economic setting.
- It has a global precedent of being extremely successful, and above all, has principles of natural justice in its essence.
- The foundational pillars of any successful ODR regime are **trust, convenience and expertise**.
- India now has a long legacy of citizens trusting technology, whether in e-payments or in education and healthcare.
- To augment dispute resolution mechanisms, Lok Adalats and Gram Nyalayas have been created as alternative options for affordable justice.
- ODR has significantly large-scale potential for innovation.

What is the mechanism?

- A three-stage mechanism can increase the potential of ODR for dispute avoidance, containment and resolution.
- The mechanism should start with online '**evaluation'**, where there is dispute diagnosis and exploration of options for litigants.
- Next, online '**facilitation'** is resorted to, where facilitators and automated negotiation tools aid in non-adversarial resolution.
- Finally, if the first two stages don't result in a resolution, an online **hearing** is conducted, which is synonymous with online courts.

What is the ODR's potential in India?

- ODR has the potential to raise equity, fairness, access in the dispute resolution ecosystem in India.
- The convenience brought by ODR has been exhibited by e-Lok Adalats conducted in several states, where disputes were resolved simply over WhatsApp audio/video calls.
- Supply-side capabilities could also be enhanced through a relatively large and competent services pool for adjudication and representation.
- ODR has the potential to be an effective alternative that utilises technology to bridge barriers and access in resolution.
- Through facilitating low cost, technology-augmented, linguistically- friendly and incentivised dispute avoidance, containment and resolution, ODR could enhance justice delivery to all.

Source: Financial Express

