



ANALYZING THE IMPACT OF ONLINE MEDIATION PLATFORMS ON TRADITIONAL MEDIATION PRACTICES

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Abstract:

The increasing integration of technology into the justice system has revolutionized the field of mediation giving rise to online mediation platforms that have significantly influenced traditional mediation practices. This paper critically analyzes the impact of online mediation on conventional face to face mediation with emphasis on how digital tools are transforming the structure, process and outcomes of mediated dispute resolution. It examines how features such as video conferencing, digital document exchange and algorithm assisted case management enhance the efficiency, accessibility and cost effectiveness of mediation.

Furthermore, the study identifies challenges concerning confidentiality, technological literacy, data protection and the preservation of personal relationships between mediators and disputants. The research further evaluates the legal framework regulating online mediation in India with special reference to the Mediation Act, 2023 and the Information Technology Act, 2000, while comparing international practices in jurisdictions such as the United States and Singapore with India. Through doctrinal and analytical approaches, the paper concludes that online mediation serves as a complementary mechanism rather than a replacement for traditional mediation. It paves the way for a hybrid model that upholds the fundamental principles of neutrality, voluntariness and confidentiality while embracing technological innovation to make dispute resolution more inclusive and future ready.

Keywords: Online mediation, Mediation Act 2023, Virtual, Digital dispute resolution, Confidentiality.

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1. Introduction:

1.1 Background of Mediation:

Mediation has been a key part of alternative dispute resolution (ADR) for a long time. It focuses on voluntary participation and reaching an agreement that works for both parties. Traditionally, it happens through meetings in person with a neutral mediator¹. But the rise of technology and digital justice systems has changed this process by making online mediation a new way to settle disputes.

1.2 Emergence of Online Mediation:

Online mediation is also known as E-mediation which incorporates electronic tools such as video conferencing, electronic document sharing and even AI based scheduling systems. E-mediation emerged at the time of the COVID-19 pandemic when the global community resorted to technological solutions to ensure access to justice through various courts and tribunals. This had a transformative but complicated effect on traditional mediation.

1.3 Research Objectives:

- To analyze the evolution of online mediation in the digital era.
- To compare its procedural framework with traditional mediation.
- To contrast with international best practices (U.S. and Singapore).
- To study India's legal approach under the Mediation Act, 2023 and Information Technology Act, 2000.
- To identify benefits and challenges associated with E-mediation.

2. Evolution of Online Mediation:

2.1. Late 1990s:

¹ Arbitrator, Conciliator, Negotiator or Mediator.

The emergence of online mediation was associated with the growth of e-commerce in the late 1990s. Internal procedures for resolving buyer and seller disputes were introduced by platforms like eBay² and PayPal³. These systems depended on structured negotiation and automated communication. They established the groundwork for mediation procedures powered by technology.

2.2. Early 2000s:

International recognition gave ODR legitimacy in the early 2000s. Guidelines for online dispute resolution were started by organizations such as the United Nations Commission on International Trade Law. Fairness, openness and enforceability were prioritized during this stage. Online mediation started aligning with traditional ADR principles.

2.3. During 2010s:

The Courts and governments started integrating ODR into official dispute resolution procedures in the 2010s. It was frequently applied to consumer, family and small claims disputes. Technological developments increased efficiency and accessibility. Online mediation has emerged as a useful addition to conventional mediation.

(The adoption of online mediation was greatly accelerated during the COVID-19 pandemic. Courts and ADR organizations were compelled to switch to virtual platforms due to physical restrictions. This made digital dispute resolution more widely accepted and trustworthy. Online mediation became a vital and successful substitute.)

2.4. Development and Legal Recognition in India:

In India, online mediation has expanded quickly because of private ODR platforms and policy initiatives. The Mediation Act, 2023⁴, which formally acknowledges and supports technology enabled mediation is a significant turning point. It has developed over time from an experimental model to a widely used ADR mechanism. These days, it enhances accessibility, efficiency and flexibility in addition to traditional

² eBay, *Resolution Center*, <https://www.ebay.com/help/resolution-center>

³ PayPal, *Resolution Center*, <https://www.paypal.com/disputes>

⁴ Mediation Act, 2023, No. 20 of 2023 (India).

mediation.

3. Nature of Online Mediation:

3.1. Characteristics of Online Dispute Resolution:

Online Dispute Resolution (ODR) is a digital version of traditional mediation procedures, especially when it comes to online mediation. ODR functions through virtual platforms, enabling parties and mediators to communicate via digital interfaces (in contrast to traditional mediation which depends on physical presence and face to face engagement). This change allows for a great deal of flexibility in terms of time and location, so parties in various areas can participate without being restricted by physical infrastructure or travel.

Online mediation maintains the fundamental tenets of traditional mediation, such as:

- The mediator's impartiality,
- The party's autonomy in reaching a settlement,
- The voluntariness of participation and
- The secrecy of the proceedings.

Thus, even though the mode of interaction shifts from physical to digital, the core and purpose of mediation remain unchanged, showing that online mediation is more of a natural extension of traditional ADR practices rather than a complete departure from them.

3.2. Role of Technology:

Online mediation relies heavily on technology to improve overall efficiency, streamline processes and facilitate communication. While encrypted messaging solutions guarantee the protection and secrecy of sensitive data, tools like Zoom and Microsoft Teams allow for real time communication that closely resembles face to face conversations.

Digital platforms also make it possible to share and execute papers easily, which minimizes administrative burdens and procedural delays. Artificial intelligence and other emerging technologies are being used more for scheduling, case management and even helping to find possible settlement possibilities.

In addition to improving convenience, these technology advancements drastically lower travel and infrastructure expenses, increasing the accessibility and effectiveness of conflict resolution. As a result, technology not only facilitates but also actively changes mediation procedures, making the administration of justice quicker, more adaptable and less expensive.

4. Impact on Traditional Mediation Practices:

4.1 Transformation of Structure: (Positive Impact)

The practice of mediation has undergone a substantial structural change because of online mediation. Online systems enable both synchronous and asynchronous communication, allowing parties to connect at different times when needed in contrast to traditional mediation which relies on in-person meetings and real time contact. Administrative coordination is also less necessary because of features like digital case management and automated scheduling.

The job of the mediator is also being redefined by this change; to properly manage virtual processes, guarantee seamless communication, and handle any technological issues that may come up during sessions, the mediator must now possess not only interpersonal and negotiation skills but also digital competence.

4.2 Improved Accessibility: (Positive Impact)

The increase in access to justice is one of the most significant effects of online mediation. People from rural or underserved locations can participate in dispute resolution procedures without having to travel thanks to e mediation, which removes geographical and physical limitations. Additionally, it is especially helpful for small enterprises and people with disabilities who might not have the means to participate in traditional mediation. It helps in democratize the process of resolving disputes by making online mediation more accessible and inclusive

4.3 Cost Effectiveness: (Positive Impact)

By simplifying the documentation and communication procedures, online mediation greatly increases productivity. Instant document exchange, speedier session scheduling and quicker dispute resolution are

all made possible by the usage of digital platforms.

Additionally, the procedure is more cost effective for both parties and mediators when expenses for travel, venue and administrative difficulties are eliminated. Online solutions flexibility also makes it possible for mediators to handle several cases more skillfully in which it boosts output and cuts down on delays that are frequently connected to conventional mediation.

4.4 Confidentiality: (Negative Impact)

Online mediation has benefits, but it also has drawbacks, especially when it comes to trust and anonymity. Data security issues, such as the possibility of hacking, data breaches and unauthorized recordings, are brought up by the usage of digital platforms. Furthermore, it may be more difficult to establish rapport and trust between participants in the absence of physical connection, both of which are essential components of a successful mediation. In a virtual environment, nonverbal clues like tone and body language which frequently direct the mediator's approach may be diminished or absent, which might have an impact on the mediation's effectiveness.

4.5 Technological Literacy: (Negative Impact)

The digital gap is another important issue that has an impact on how inclusive online mediation is. Many people may not have access to dependable internet connectivity, suitable equipment, or the digital knowledge required to participate in online proceedings, especially in rural or economically poor places. The very access to justice that online mediation aims to advance may be hampered by this technical divide. Therefore, even though ODR has the potential to be very inclusive in resolving these educational and infrastructure inequalities, it is necessary for it to be effective.

5. Legal Framework Governing Online Mediation in India:

5.1 The Mediation Act, 2023:

An important step toward legally incorporating online mediation into India's judicial system is the

Mediation Act, 2023⁵. It gives technology driven mediation methods legal support by explicitly recognizing online mediation as a legitimate and enforceable form of conflict resolution. The Act ensures that the integrity of the mediation process is maintained even in a digital setting by establishing extensive rules covering crucial elements including secrecy of proceedings, parties' voluntary assent and the process for appointing mediators.

Crucially, it makes mediated settlement agreements enforceable under Section 27⁶, giving them a standing akin to court judgments and enhancing the legitimacy of mediation results. Additionally, the Act promotes the establishment and regulation of online mediation service providers, to be accredited by the Mediation Council of India, thereby creating a structured and accountable ecosystem for digital dispute resolution in the country.

5.2 The Information Technology Act, 2000

The fundamental legal framework that underpins online mediation in India is the Information Technology Act, 2000⁷. It guarantees that digital signatures, online conversations and electronic records have the same legal validity as their physical counterparts which is crucial for ODR procedures to operate. The Act makes digital documentation and consent in mediation procedures easier by acknowledging electronic contracts and authentication techniques.

Additionally, it offers clauses pertaining to cybersecurity, data protection and responsibility which are essential for resolving privacy and confidentiality issues in online mediation. The IT Act essentially serves as the technological foundation for online mediation by enabling the legal recognition and enforcement of all digital exchanges involved.

Section 4: Legal Recognition of Electronic Records: According to Section 4 of the Information Technology Act of 2000⁸. Electronic records have the same legal validity as physical papers that are accessed for future reference. This guarantees the legal recognition of digital submissions in online mediation which include applications, evidence and settlement drafts. Additionally, it also confirms the

⁵ *Mediation Act, 2023*, supra note 4

⁶ *Mediation Act, 2023*, Section 27 supra note 4

⁷ Information Technology Act, 2000, No. 21 of 2000, (India)

⁸ *Information Technology Act, 2000*, section 4 supra notes 7.

usage of virtual platforms for mediation.

Section 5: Legal Recognition of Digital Signatures: Digital signatures are acknowledged as a legitimate method of electronic record authentication under Section 5.⁹ This ensures legitimacy, consent and enforceability in online mediation by enabling parties and mediators to safely sign agreements and documents. Additionally, it also aids in preventing fraud or tampering with digital transactions.

Section 79: Safe Harbor for Intermediaries: Online platforms are shielded from responsibility for third party material under Section 79¹⁰ conditional immunity in which they exercise reasonable care. This protects ODR platforms and service providers in the context of online mediation while guaranteeing that they uphold safe and legal procedures.

Together, these provisions facilitate the seamless conduct of mediation in digital space by:

- Granting legitimacy to electronic records and communications.
- Ensuring authenticity and trust through digital signatures.
- Providing legal protection for technology platforms involved and
- Reinforcing data privacy and accountability under subsequent amendments and allied rules (like the IT Rules, 2021 and Digital Personal Data Protection Act, 2023).

6. Case Laws:

- **M/s Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd., (2022)¹¹ :**

In this landmark judgment, the Supreme Court held that pre litigation mediation under Section 12A of the Commercial Courts Act, 2015¹² is mandatory, except in cases involving urgent interim relief. The Court clarified that this requirement is not merely procedural but goes to the root of the maintainability of a suit.

⁹ *Information Technology Act, 2000*, section 5, supra note 7.

¹⁰ *Information Technology Act, 2000*, section 79, supra note 7.

¹¹ (2022) 10 SCC 1; 2022 SCC OnLine SC 1028; Civil Appeal No. 5333/2022.

¹² Commercial Courts Act, 2015, No. 4 of 2016, section 12A (India).

It emphasized that mediation is intended to promote amicable settlements, reduce judicial backlog and preserve commercial relationships.

The Court also recognized the growing importance of technology in dispute resolution and encouraged the use of online mediation platforms to enhance accessibility and efficiency. By doing so, the judgment strengthened the role of mediation in India's legal system and supported the development of structured digital mediation mechanisms particularly in commercial disputes.

- **M.C. Mehta v. Union of India, (1986 – 2020):**

Although primarily recognized as a series of landmark environmental cases, *M.C. Mehta v. Union of India* also illustrates the judiciary's gradual shift towards integrating technology in the justice delivery system. Over the years, particularly during the later stages of monitoring and compliance, the Supreme Court adopted mechanisms such as digital filing, online compliance tracking and continuous monitoring through technological tools. This approach became even more prominent during the COVID-19 pandemic, when the Court conducted virtual hearings to ensure continuity of proceedings despite physical restrictions.

These developments reflect the judiciary's openness to adopting digital methods to improve efficiency, transparency and accessibility. While the case itself did not directly deal with mediation, it indirectly validated the use of technology in dispute resolution processes, including online mediation. It demonstrated that technological integration can coexist with traditional legal mechanisms which enhance the speed and effectiveness of justice delivery without compromising its core principles.

- **Salem Advocate Bar Association v. Union of India (2005)¹³ :**

In this case, the Supreme Court strongly reinforced the importance of Alternative Dispute Resolution mechanisms (particularly mediation) under Section 89 of the Code of Civil Procedure, 1908¹⁴. The Court observed that ADR processes are essential to reduce the growing burden on courts and to provide quicker, more effective justice to litigants. It directed the framing of rules and the establishment of proper systems to operationalize mediation, thereby institutionalizing it within the Indian legal framework rather than

¹³ AIR 2005 SC 3353; (2005) 6 SCC 344.

¹⁴ Code of Civil Procedure, 1908, No. 5 of 1908, section 89 (India).

treating it as merely optional.

Although the judgment predates the emergence of online mediation, its significance lies in laying the groundwork for the evolution of mediation practices in India. By recognizing mediation as a crucial part of the justice delivery system, the Court indirectly paved the way for future innovations, including Online Dispute Resolution. The emphasis on efficiency, accessibility and structured mediation processes aligns closely with the objectives of online mediation platforms, making this case highly relevant in understanding the transition from traditional to digital mediation.

- **State of Maharashtra v. Praful B. Desai (2003)** ¹⁵ :

The Supreme Court ruled in this case that using video conferencing to record evidence is legal and does not contravene procedural law. The Court acknowledged that technological innovations can be applied to legal proceedings in an efficient manner without sacrificing justice. This ruling is important for online mediation because it supports the use of virtual platforms and shows that digital forms of communication may be trustworthy and lawfully acceptable in conflict resolution.

- **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd. (2010)** ¹⁶ :

In this case, the Supreme Court clarified the scope and proper application of Alternative Dispute Resolution mechanisms under Section 89 of the Code of Civil Procedure¹⁷, with particular emphasis on mediation and conciliation. The Court provided detailed guidelines on which categories of disputes are suitable for ADR, distinguishing between matters that can be amicably settled (such as commercial, contractual and family disputes) and those that require adjudication. It also stressed the need for courts to adopt a structured and systematic approach while referring cases to mediation.

The judgment significantly strengthened the procedural framework of mediation in India by promoting clarity, consistency and institutionalization. Although it did not directly address online mediation, the emphasis on structured processes and efficient dispute resolution created a strong foundation for integrating technology into mediation practices. This has indirectly facilitated the growth of online

¹⁵ AIR 2003 SUPREME COURT 2053.

¹⁶ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 S.C.C. 24 (India).

¹⁷ Code of Civil Procedure, 1908, No. 5 of 1908, § 89 (India), <https://indiacode.nic.in/handle/123456789/2191>.

mediation platforms, as the principles laid down in the case align with the objectives of accessibility, efficiency and streamlined dispute resolution in the digital era.

7. Comparative International Perspective:

7.1 United States:

The United States has led the way in Online Dispute Resolution (ODR) through systems like Modria and Matterhorn which state courts employ to handle civil and consumer issues. Even when agreements are made online, the Uniform Mediation Act of 2001¹⁸ guarantees their confidentiality and enforceability. These methods preserve due process and impartiality while improving efficiency, accessibility and lowering litigation costs. The American approach demonstrates how incorporating technology into the legal system may increase openness and engagement without sacrificing justice.

7.2 Singapore:

The Singapore Convention on Mediation, 2019¹⁹ permits cross border enforcement of mediated settlements which has successfully integrated online mediation into Singapore's Mediation Center (SMC) and International Mediation Center (SIMC). It is a global paradigm of trust based digital conflict resolution because of its safe, user friendly platforms and skilled mediators. In order to maintain the legitimacy and dependability of online mediation services, Singapore's government also encourages ongoing training and cybersecurity examinations.

7.3 Lessons for India:

India can embrace Singapore's hybrid mediation framework and the AI-based case management strategy used in the United States. India can create an online mediation system that is efficient, ethical and internationally coordinated by focusing on cybersecurity, mediator accreditation and international

¹⁸ Uniform Mediation Act (Unif. L. Comm'n 2001), <https://www.uniformlaws.org/committees/community-home?CommunityKey=45565e0b-0c56-4d3a-b387-6e4b4f8e9f36>.

¹⁹ <https://www.singaporeconvention.org/>.

enforceability under the Mediation Act, 2023²⁰. India's transition to a sustainable and inclusive digital dispute resolution ecosystem would be strengthened by combining these best practices.

8. The Rise of the Hybrid Model:

8.1. Concept:

A well-rounded strategy that incorporates both online and offline aspects of conflict resolution is hybrid mediation. Under this paradigm, important phases like final negotiations or settlement talks may be held in person, while earlier stages like intake, document exchange and preliminary discussions are carried out via digital platforms. This framework creates a workable middle ground between traditional and online mediation by allowing parties to take advantage of the efficiency of technology while maintaining the interpersonal dynamics and trust-building elements of face-to-face mediation.

8.2 Benefits

The hybrid model provides several benefits by integrating the best features of both forms. It offers flexibility by permitting in person conversation where rapport and emotional nuance are crucial and as well as remote engagement when convenient. This method lowers travel and logistical expenses without compromising the human component necessary for successful mediation. It is especially helpful in high volume cases and cross border conflicts when collaboration and efficiency are essential.

8.3 Challenges in Implementation

Hybrid mediation has benefits but it also has drawbacks. Procedural delays or discrepancies can occasionally result from coordinating between online and offline phases. Additionally, there can be problems with logistical limitations during in person meetings and technological dependability during online stages. Furthermore, strict regulations and strong protections are needed to guarantee confidentiality and data security in both digital and physical media.

8.4 Role of Mediators in Hybrid Systems

²⁰ *Mediation Act, 2023*, supra note 4

The role of mediators becomes more complex in a hybrid model, as they must be adept at handling both virtual and in person interactions. Mediators are required to manage digital platforms efficiently, maintain engagement in online sessions and seamlessly transition to physical meetings when necessary. This demands a combination of technological proficiency and traditional mediation skills, making adaptability a key requirement for modern mediators.

8.5 Suitability for Different Types of Disputes

Hybrid mediation is particularly suitable for disputes that require both efficiency and personal engagement. Commercial, cross border and corporate disputes benefit from online preliminary stages while sensitive matters such as family disputes may require in person interaction for final resolution. Thus, the model offers flexibility to tailor the mediation process according to the nature and complexity of the dispute.

8.6 Future Prospects

The hybrid approach is becoming more in line with the larger goal of expanding India's access to justice. It enhances programs like Lok Adalats and E-courts which make the ADR environment more adaptable and technologically advanced. Hybrid mediation is expected to play a major role in the future, promoting a more accessible, effective and inclusive method of conflict resolution by integrating digital convenience with human connection.

9. Challenges:

- Sensitive information shared online can be exposed to hacking or unauthorized access. (Data Privacy Risks)
- Lack of strong encryption or secure servers can lead to breaches compromising confidentiality. (Cybersecurity Threats)
- Many participants in rural or underdeveloped areas lack internet access or devices. (Digital Division)
- Parties or mediators unfamiliar with digital tools struggle to navigate online platforms. (Technological Illiteracy)

- Difficulty verifying participant’s identity may lead to impersonation or fraud. (Authenticity of Identity)
- Risk of recording, screen capturing or data leakage during online sessions. (Confidentiality Concerns)
- Absence of in person communication reduces empathy and rapport between parties. (Loss of Personal Interaction)
- Connectivity issues, platform crashes or audio-visual delays disrupt the proceedings. (Technical Glitches)
- Determining which court has authority in cross border online mediations can be complex. (Jurisdictional Uncertainty)
- Ambiguities around enforcement of digitally signed settlement agreements. (Enforceability Issues)
- Algorithms used for mediator selection could create perceived or actual bias. (Mediator Neutrality)
- No uniform national or international standards governing e-mediation platforms (Lack of Standard Regulations)
- Many citizens and businesses remain unaware of online mediation as a legal remedy and Traditional mediators and lawyers may hesitate to adopt digital formats.
- Compiling online platforms requires significant investment and virtual settings make it harder to manage language differences or cultural nuances.
- Lack of clear guidelines on how long mediation data should be stored. (Data Retention and Storage)
- Many mediators lack technical skills and digital communication training and there is absence of explicit provisions addressing digital mediation procedures in older laws.

10.Suggestions:

- To enforce end to end encryption, multi factor authentication and secure cloud storage for all mediation communications and To Align online mediation practices with the Digital Personal Data Protection Act, 2023 to safeguard privacy.
- Government and legal institutions should support low-income regions with internet access and devices.
- To organize workshops for mediators, lawyers and disputants on using E mediation tools confidently. (Enhance Digital Literacy Training)

- To use Aadhaar linked verification or digital signature certificates for authentic participation and to create national guidelines under the Mediation Council of India for procedural uniformity.
- To Create national guidelines under the Mediation Council of India for procedural uniformity, importantly by mandating non-disclosure agreements and disable recording features in virtual sessions.
- To Develop a National Online Mediation Portal a single secure platform should be integrated with E courts for seamless access to mediation services.
- Combine online and offline sessions should take place to balance convenience with personal engagement. (Encouragement of Hybrid Mediation Models)
- To conduct campaigns to educate citizens and businesses on the benefits of online mediation.
- To amend rules to ensure that digitally signed settlement agreements are directly enforceable in courts.
- By Aligning Indian practices with the Singapore Convention on Mediation (2019) for global enforceability will encourage Cross Border Collaboration.
- To Regulate the use of algorithms in mediator selection and case management to ensure fairness and to incorporate regional languages and translation tools for inclusivity.
- Government supported software solutions can make digital mediation affordable and accessible and Periodic audits of online mediation platforms to be done to ensure compliance and transparency.
- To collaborate with tech companies and legal experts to build innovative, secure and user-friendly mediation systems. (Encourage Public Private Partnerships)

11. Conclusion:

Due to its increased accessibility, speed and affordability, online mediation has drastically changed how conflicts are settled. However, it also presents considerable difficulties in terms of upholding secrecy and maintaining interpersonal trust. Provisions under the Mediation Act of 2023 which acknowledge the online mediation and provisions under the Information Technology Act of 2000 support in demonstrating India's growing adoption of technology in conflict resolution.

Online mediation should not be viewed as a total substitute for conventional techniques, though. Rather, the emphasis should be on striking a balance between human contact and technology. This strategy

combines the advantages of digital platforms with the intimate aspects of in person mediation and is reflected in the growth of hybrid mediation.

In the future, such a well-balanced system can assist guarantee that the fundamental principles of mediation neutrality, voluntariness and secrecy are maintained while adjusting to contemporary technology developments.