

## ONLINE DISPUTE RESOLUTION IN PAKISTAN: CHALLENGES AND OPPORTUNITIES

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### ABSTRACT

**Background and Purpose:** In Pakistan, courts are still seen as the primary forum for resolving civil disputes. The large number of pending civil cases that require an unacceptable amount of time to achieve a final judgment is proof of this. Delays in the administration of justice and the length of trials are elements that have led to the development of Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) approaches; at the same time, they are critical issues that need to be addressed in Pakistan and throughout the world. Many procedural reforms have been implemented to date, and the mechanism of consumer redress has improved. However, existing institutions are ineffective in resolving the vast majority of consumer disputes that arise from online transactions. The study aims at exploring the legal and technical challenges that would not allow the use of ODR for disputes in Pakistan.

**Methodology:** This research uses the doctrinal legal analysis methodology by asking ‘what the law states about the ODR in Pakistan’ to enrich the subject matter of the ODR and cover all perspectives, issues, features, and the most current advancements in the area of ODR and ADR in Pakistan. Currently, there is no applicable national or international law in Pakistan mainly regulating ODR. Therefore, at this stage, this article analyses the existing rules such as Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011 and Alternative Dispute Resolution Act 2017 to

examine whether they apply to ODR. Along with exploring the nature of existing legal framework on the ADR and ODR, this paper significantly develops a theoretical framework that application of ODR standards, in a substernal manner, depends on its socio-cultural acceptance. Notably, this article does not employ empirical research on the data of ODR. Instead, it uses statistics provided by international and national commissions, groups and centres.

**Findings:** There is evidence that ODR is still at an early stage of evolution in Pakistan, as it faces cultural, regulatory and technological challenges that hinder the growth of ODR.

**Contributions:** Despite its incomplete development, ODR has demonstrated its potential adaptability by accommodating national contexts. This is an essential feature because the aim is not to blindly transfer a dispute resolution system from other jurisdictions but to habilitate it to the national cultural features as well as social limitations, especially those regarding ICT infrastructure. ODR has also shown its great potential in Pakistan, may provide an affordable and speedy alternative to the usually unsatisfying traditional litigation system, and may allow the resolution of disputes to be completed time-efficiently and cost-effectively.

**Keywords:** Access to Justice, Alternative Dispute Resolution, Consumer Disputes, Online Dispute Resolution

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## 1.0 INTRODUCTION

In Pakistan, courts are still considered the main dispute resolution forum for civil disputes. Evidence of this is the exorbitant number of pending civil cases (more than 2 million cases), which take an unreasonable time (around 540 days) to reach a final judgment (Law & Justice Commission of Pakistan). Delays in the award of justice and the long duration of trials are factors that have led to the emergence of ADR and ODR methods; at the same time, they are urgent problems awaiting solutions in Pakistan as well as elsewhere around the world. To date, many procedural reforms have been adopted and the dispute resolution system has improved. However, the existing mechanisms that include the special courts such as consumer courts are not effective in resolving the huge number of disputes. Thus, to enhance consumers' access to

justice modern, fast, less formal, and cost-effective mechanisms supported by Information Communication Technology (ICT) are undoubtedly needed in Pakistan.

Moreover, since the start of COVID-19, restrictions on travel and face-to-face (F2F) meetings have paused the operation of the courts, arbitration institutions, other traditional dispute resolution methods and limited the choices offered to disputants. Traditional litigation systems throughout the world have responded to the coronavirus pandemic outbreak by postponing or pausing proceedings.

While some courts and ADR institutions have tried to utilise ICT such as using videoconference to lessen delays, others have decided to delay all proceedings considered non-essential (Weiss, 2020). Parallel to the impact of the Covid-19 on the economy, the number of disputes remain to climb (Dunn, 2020). To reduce further disruption in an unpredictable economic atmosphere, many disputants may explore a fast and effective way to resolve their disputes (Habyyev & Kaya, 2021). In this regard, arbitration institutions have started to move from ADR to Online Dispute Resolution (ODR) despite the global pandemic.

The dispute resolution methods are improved when supported by ICT because the parties do not need to travel, which in turn decreases costs, saves time and increases access to justice. Online Dispute Resolution largely combines ADR processes with ICT and the Internet, which are better fitted to the necessities of e-commerce (Cortés, 2011; Katsh & Rifkin, 2001; Kaufmann-Kohler & Schultz, 2004; Hörnle, 2009; Abdel Wahab, Katsh, & Rainey, 2012). ODR offers an alternative method for the resolution of commercial disputes.

Developed nations, such as the US and the EU, have long-established ODR systems and currently have advanced systems in place to handle disputes arising in many different fields. However, emerging countries, such as Pakistan, are several steps back in ODR, not taking full advantage of the developments in information communication technology (Khan, Kaya, & Habib, 2018).

Although the study on the use of ODR in B2C conflicts is not new, most of the legal writing comes from the United States and the European Union. There has been relatively little published on this topic in Pakistan yet. In addition, there is evidence that ODR is still in its early stages in Pakistan, where it is confronted with extra challenges such as economic and legal cultures.

In Pakistan, there is currently no applicable national or international law governing ODR. However, with the advancement of new technologies, Pakistan has become more interested in promoting ODR to help boost and accelerate the growth of e-commerce in the country. Therefore, the advancement of ODR in the legal framework of Pakistan is examined

in this article, which assesses ODR approaches. Furthermore, it explores what can be learned from ODR legal academic writing in various countries and how to use this knowledge in the context of Pakistan, which seeks to establish a safe online internal market that promotes proper consumer redress.

After introducing ODR and its legal principles, this paper analyses the suitability of ODR for Pakistan and explores the policymaking and regulatory challenges of ODR in Pakistan ahead of being recognised as a method for the resolution of online consumer disputes; it is an interesting option to explore as it may help in redressing complaints, increasing consumer trust, and building more secure e-commerce environment in Pakistan.

## **2.0 ONLINE DISPUTE RESOLUTION**

The modernization of ADR began in 1996 with an ODR pilot project called "Virtual Magistrate" at Villanova University, to create a faster, more cost-effective, easy, and efficient dispute settlement method. This ODR system was not thought to be very useful because of the project's failure. Day by day, however, well-known, and non-profit organizations such as the American Bar Association (ABA), the American Arbitration Association (AAA), and the World Intellectual Property Organisation (WIPO) have strengthened and exploited the concept of ODR (WIPO) (Kaya, 2020).

ODR is a method of resolving disputes using electronic communications, which encompasses many different types of ADR and e-courts. Emails, telecommunications application software, and other communication technologies are examples of electronic communications used for ODR (Wang, 2018). Although ODR may be utilized in most civil and commercial disputes, it is best suited to those involving electronic transactions or cases involving the internet because electronic evidence can be simply filed via the internet on the ODR platform (Wang, 2018).

The COVID-19 pandemic successfully instilled a strong need for ODR, with a large number of cases coming up for hearing through this process in the finance, banking, estate, commerce, and retail sectors. According to reports, professionals have been exposed to this technique and are quite likely to view it as a more frequent practice as the virus continues to mutate, resulting in infections and the need for partial or micro lockdowns in numerous cities and nations throughout the world.

ODR has evolved as a diversified field capable of resolving a wide range of disputes and conflicts over long distances, and the trend is projected to accelerate in the future. Legal ODR is being expanded to encompass other sorts of conflicts because to its cost-effectiveness,

and this trend is projected to continue during the forecast period (Cortés, 2011; Katsh & Rifkin, 2001; Kaufmann-Kohler & Schultz, 2004; Hörnle, 2009; Abdel Wahab et al., 2012). Accessibility, convenience, and speed of resolution of this option, as well as the decrease of pressure on traditional courts and judicial institutions, are all seen as positives. The costs of settling conflicts through traditional judicial systems are substantially greater, and each hearing requires a significant amount of effort. Legal ODR has some parallels to traditional hearings, but it is not the same.

## **2.1 Legal Principles of ODR**

There are no harmonised international standards that have identified the need for the establishment of ODR services. The majority of ADR services, such as arbitration institutions or mediation centres did not equip with any specific ODR rules, apart from an ODR user guide or protocol as a supplementary guideline to their traditional ADR methods rules. Recently, the extraordinary disruptions to travel caused by Covid-19 have encouraged further interest in using ODR mechanisms. In response to the COVID-19 crisis in particular, the International Chamber of Commerce (ICC), the American Arbitration Association (AAA), the AAA-International Centre for Dispute Resolution (ICDR), the International Centre for Settlement of Investment Disputes (ICSID), the Singapore International Arbitration Centre (SIAC) and Istanbul Arbitration Centre (ISTAC) have all announced guidance on the use of ICT in hearings.

At international level, the UNCITRAL Technical Notes on ODR promotes the principles of fairness, transparency, due process and accountability, while in the EU the ODR Regulation supports the principles of confidentiality and security, trust, efficiency, independence, impartiality, transparency, effectiveness and fairness. Moreover, some well-established private ODR services, such as China International Economic and Trade Arbitration Commission (CIETAC) and Hong Kong International Arbitration Centre (HKIAC), adopted the ODR Regulation's rules to promote the independent, impartial and efficient resolution of commercial disputes.

As pointed out above, both private and public ODR entities have set up and promoted a set of minimum standards and principles for devising an ODR system. Since ODR has become popular in resolving both cross-border and domestic disputes, there is a rising need for harmonised rules and procedures to ensure the quality of ODR services. The quality of ODR services has a significant impact on the disputants' trust and confidence to this dispute resolution system. Therefore, this part of the paper discusses the main principles for the

establishment and continuation of a strong and successful ODR system that will improve the quality of ODR services around the world.

**Accessibility:** Accessibility is a crucial component in the growth of ODR and access to justice in general. The International Chamber of Commerce (ICC) defines accessibility as a relevant correspondence connected to a transaction should be freely accessible and made available to the consumer upon request (ICC, 2003). According to the ICC, users should have access to the system 24 hours a day, seven days a week, and all year to file new cases or track their current case information (ICC, 2003).

The design and implementation of efficient and effective processes ensure that they are used by the broadest possible range of people while also taking into account the reality of cultural differences within and between jurisdictions, as well as differential access to resources and experiences of marginalization, which can obstruct access to formal and informal dispute resolution and justice processes. The right to representation for parties in dispute resolution processes is successfully facilitated and not limited by ODR tools and methods.

In the view of Kaufmann Kohler and Schultz (2004), the ODR method must be simple to find and utilize. Furthermore, according to Schmitz, the ODR platform must be exceedingly user-friendly and transparent for consumers so that their lack of experience does not disadvantage them (Schmitz, 2018). Schmitz (2018) also claims that traders, as opposed to consumers, are more likely to be repeat participants in dispute resolution processes. Therefore, they accumulate information that gives them an advantage in resolving disputes in their favor (Schmitz, 2018). As the traders and companies are well-versed in consumer laws and their technicalities, the system of ODR may favor the companies and traders as dominant parties (Schmitz & Rule, 2017). The presence and availability of ODR must be made public through Trustmark or authorisation, or by reference on commercial websites, in order to make it easier for parties to access ODR providers (Schmitz & Rule, 2017).

**Credibility and Accreditation:** Mediators and arbitrators that provide online mediation and arbitration services in ODR systems must be accredited to meet particular educational, training, performance, and ethical standards. Accreditation would give ODR credibility by guaranteeing that it is based on a solid foundation of quality assurance (Tyler & Bornstein, 2006). Approved ODR service providers, as well as governments and international organisations, can enforce or monitor accreditation. Online practitioners should have specialised expertise in areas such as online cultures, technology, online communication, online negotiation processes, online

context, online procedures, and online decision-making. Online practitioners must also have the ability to access a dispute for ODR, obtain and use information online, define the dispute online, administer the online process and interactions between parties, and end the ODR process (Tyler & Bornstein, 2006). The most recent version of the UNCITRAL Technical Notes on ODR does not specify a system for neutral accreditation. However, it emphasizes that in order to eliminate conflicts of interest, ODR services should establish standards of conduct and an ethical code for their neutrals (UNCITRAL Technical Notes on ODR). Furthermore, the UNCITRAL Technical Notes states that bodies may set norms for neutral selection and training (Kaya, 2020).

**Accountability (Transparency) versus Confidentially:** Another critical aspect of ODR is the notion of transparency, which helps to increase trust in ODR services. The notion of transparency is critical in the context of consumer disputes because it ensures that businesses and consumers have equal access to information (Wang, 2018). Businesses are more experienced with the procedures, which can offer them an advantage over consumers who are unfamiliar with the technique. Transparency attempts to achieve a fair balance between businesses and customers in general (Kaya, 2019). The UNCITRAL Technical Notes on ODR specifies that all relevant information should be available on the entities' websites (UNCITRAL Technical Notes on ODR). Through this information, ADR and ODR users will be aware of the process they get in and determine which of the available methods is more effective and suitable for them (Wang, 2018). In addition, they can assess whether these methods meet their cost and time effectiveness expectations.

Confidentiality is another important aspect. This approach encourages people to be open and honest in their arguments, assuring them that nothing they say will be publicised or used against them in judicial proceedings. The absence of secrecy may deter disputants from participating, particularly in commercial transactions, because firms may object to their disagreements being published because it could harm their reputation, dependability or even expose their trade secrets (Wang, 2018). It should be noted that online B2C transactions frequently result in monetary disputes over low-value purchases. These disagreements are less emotionally charged, and the disputants are less concerned about confidentiality (Cortés, 2011).

**Security:** Security is an essential principle for the acceptance and development of ODR. In the area of online communication, several forms of risks to systems and data exist. All this results

in a never-ending circle of security breaches. Therefore, security is a dominant factor in protecting users and their confidential information (Kaya, 2019). For the success of the ODR procedure, users should be confident that their documents and communications will be securely collected by their proposed receivers and will be safely stored on an assigned site or portal (Schmitz, 2018).

Using a web-page communication rather than a non-secure or less secure e-mail communication is one of the more practical ways of participating in ODR safely and securely because only the parties have access through a valid password and username, which prevents unapproved access in the web-page communication (Rule, 2002). In addition, secure mail communication is another ideal method for ensuring the confidentiality and integrity of the information that is currently in use. The Secure Multipurpose Internet Mail Exchange Protocol (S/MIME), for example, allows you to verify the e-mail's origin and ensure the information's security and integrity (Schultz, Bonnet, Boudaoud, Harms, & Langer, 2002).

### **3.0 CHALLENGES OF ODR DEVELOPMENT IN PAKISTAN**

#### **3.1 Cultural Challenges**

Before starting an analysis of the cultural challenges of establishing ODR in Pakistan, it is necessary to provide a clear definition of culture for this research. Culture can be described as “[t]he way of life, especially the general customs and beliefs, of a particular group of people at a specific time” (Cambridge Dictionary). Pakistani society has not yet fully adopted the idea of utilising ICT for activities, such as purchasing goods or services or settling disputes. Regional characteristics give priority to personal relations rather than objective treatment. For example, instead of purchasing goods or services at home on the Internet, most Pakistani consumers find it more convenient to go to the shopping centre (Khan, Zubair, & Malik, 2019). This means that consumers can see, touch, test, or try on what they will purchase while having F2F contact with the sellers. In addition, they can meet with other families and friends, and enjoy a coffee or a meal. This cultural perspective has a significant influence over e-commerce, ADR, and ODR.

Changing the habits of individuals is quite difficult. Even if people know something is not true, they may be reluctant to abandon their habits. Bringing a case to court, even if it is laborious, costly, and takes a long time, is an example of the abovementioned habits that people find hard to abandon. This habit is referred to in the literature as litigiousness (Greenhouse, 1989; Wolff, 2013). Pakistan is one of the most litigious societies in the world (Ali & Aziz-ur-Rehman, 2021). As the transition towards urban life accelerates and the effect of individualism,

as a natural consequence of this, is obvious, people can still prefer to take a case to court, instead of negotiating the disputes or using alternative methods, which can be easier and more convenient. Pakistan, even though it is not the biggest country in the world, has many courthouses and this does not help with changing the habit of being litigious (Khan, 2018). This is to some extent a question of how societies evaluate living together, how they search for quality life, and most importantly, during the transition from an agricultural society towards urban life how they perceive interpersonal trust. To some extent, it is about how leaders are guided by society. For example, in 1850 Abraham Lincoln, one of the first Presidents of the United States, a country where mediation has years of history, famously said “Discourage litigation. Persuade your neighbours to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses, and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man. There will still be business enough” (Lincoln, 1850).

The level of prosperity in a country directly affects the access to professional services, including ADR. It is true that individuals, who find it difficult to meet their basic needs, such as housing, nutrition, transportation, education, should be reluctant to apply for professional services. The legal services sector is also directly affected by the overall statement. On the other hand, prosperity also increases life expectancy. Individuals, who survive such a failure to meet their basic needs, want to resolve their problems faster, less costly, and less formally. Therefore, the increase in the level of welfare and the fact that people have money to spend on things other than their basic needs will increase the tendency towards the legal services sector, such as applying ADR methods to resolve their disputes.

Additionally, it is worth mentioning that legal culture in a country is one of the most significant factors that affect the developments of ODR. The legal culture of society creates public knowledge of and behaviour patterns regarding the law and legal system (Friedman, 1998). Lawrence Friedman, a well-known proponent of the idea of legal culture (Silbey, 2018), defines legal culture as the idea, values, attitudes, and opinions, people in some society hold concerning law and the legal system (Friedman, 2019). To analyse any legal rules separately from culture is inadequate for understanding the consequences that occurred in an adjudication in any legal system. The reason for this is that the same legal rules have different results in different countries. For example, in both the UK and Pakistan pedestrians have priority on a pedestrian crossing. Nevertheless, while pedestrians are most of the time safe when using the pedestrian crossing in the UK, the same walkers might be injured by cars in Pakistan. Therefore, it can be argued that certain legal rules that are in line with the social structure and

culture of a state, can be understood and applied differently in another state. As such, the culture of countries, as well as the attitudes and character of human being, are essential for understanding how rules laws operate and are applied in each country.

### 3.2 Information Communication and Technology Challenges

In Pakistan, there is notable growth in ICT. According to the recent report, the penetration rate is less than 30% in 2020 (about a 61million users out of 223 million) (Dataportal, 2021). There has been a significant increase of more than 200% in Pakistan internet users in the last ten years, i.e., between 2009 and 2019 (World Bank, 2021). The research carried out in December 2020 shows that there are approximately 93 million broadband subscribers in Pakistan (Pakistan Telecommunication Authority). Unquestionably, the growing number of Pakistani internet users and the increasing penetration of the internet shows that ICT is rapidly developing in Pakistan. Moreover, the Pakistani government has endeavoured to raise the awareness of users to ICT. However, it is worth mentioning that internet users in Pakistan use the internet mostly for social media and video platforms (See Table 1). The total number of active social media users is more than 45 million (20% of the total population).

Table 1: Ranking of top 10 websites based on total traffic volume in December 2020  
(Dataportal, 2021)

Website	Total Visits
GOOGLE.COM	373M
YOUTUBE.COM	150M
FACEBOOK.COM	90.9M
WIKIPEDIA.ORG	36.5M
GOOGLE.COM.PK	25.1M
INSTAGRAM.COM	16.8M
WHATSAPP.COM	15.5M
XNXX.COM	9.38M
DAWN.COM	9.38M
TWITTER.COM	8.49M

The research also states that the percentage of shopping online is slightly less than 10% in Pakistan in 2020, and interestingly, only 1% of the population has a credit card (Table 2). Moreover, the average annual spend per consumer in e-commerce is 82 US Dollar (Dataportal, 2021). These existing statics show that concerning legal infrastructure, there is a lack of rules

that weakens consumer confidence, especially the inadequacy of a consumer protection legal framework recognised as one of the main challenges of the development of e-commerce in Pakistan.

Table 2: Percentage of the population aged 15+ that reports owning or using each financial products or services (Dataportal, 2021)

Has an account with a financial institution	21.3%
Has a credit card	1%
Has a mobile money account	6.9
Makes online purchases / Pay bills online	8%
Percentage of women with a credit card	0.7%
Percentage of men with a credit card	1.2%
Percentage of women making online transactions	3.3%
Percentage of men making online transactions	12.3%

Confidence in e-mobile and e-commerce raises the individuals' eagerness to subject disputes to ODR methods. Additional factors that may support the reliance on ODR schemes are the accessible and affordable Internet and high-quality broadband. A set of practical courses is required to increase the level of competence of those using computers and ensure cyber literacy, especially for professional activities. The Pakistani government has a critical role in developing and implementing education programs that would provide national access to computers and improve IT proficiency. The government has already taken action towards the direction of providing access to the internet but bridging or decreasing the digital divide is still pending. Furthermore, participation in ODR procedures by disputants and neutral third parties presupposes that they all have an adequate level of digital knowledge. For instance, a tech-savvy party can make the most of the opportunity to use the ODR system, while another party, who is not familiar enough with online schemes, may start with having over a barrel.

### **3.3 Information Lack of Consumer Awareness concerning ADR and ODR**

The first step to benefit from ADR is to feel the need for a mediator or arbitrator. Naturally, the parties see themselves as the people who know about the conflict best and therefore can find a satisfactory solution. However, the pressure from the dispute can get on disputants' nerves and consume their patience. Over time, the dispute may prevent the parties from thinking clearly and find a good solution for them. Moreover, the parties can ignore or not accept that they have lost the ability to manage the dispute wholesomely at any stage.

If there is no cultural tendency in the society to seek help from professional services, this is directly reflected in the behaviour of the disputants, and, as seen in Pakistani society, parties prefer to get a lawyer to file a case. Not having hopes for resolving disputes through ADR methods to push parties to go to court for disputes (Ali & Geng, 2021). When filing a case, to avoid making mistakes and avoid any further loss, the necessity to use a lawyer is unquestionable. In doing so, the idea of resorting to any ADR methods does not come to the disputants' minds (Gohar, 2018).

Even if parties go to ADR methods for the resolution of their disputes, the uncertainty about how the ADR methods will help the parties is the second major obstacle to be overcome. Overcoming these barriers requires extensive information on mediation or arbitration, including what is their role and how the mediator or arbitrator can help the parties.

To develop the consumer ADR and ODR in Pakistan, it is necessary to raise awareness and understand the notion of ADR and ODR. If users are unaware of the fact that they can use ADR and ODR and how to access them, then ADR and ODR are impractical. If a consumer submits a complaint to an ADR or ODR service, it will be important to persuade the party to be involved in the procedure. This is especially challenging when there is an imbalance of power between the disputants, but it depends on the preferred ODR method. If arbitration is chosen, it will be simpler to set the mechanism when participants have an arbitration agreement before the dispute occurs. Nevertheless, legal issues may occur in Pakistan regarding the validity of a consumer arbitration agreement before the dispute arises. In the event of mediation, it will be easier to convince disputants to mediate for not serious disputes especially if there is no serious power difference between them, in which case there is a tendency to continue the relationship. Katsh and Rifkin (2001) state that companies may be unwilling to consider ODR services, hence there is a need for raising their accountability. They also recommend that parties must be notified not only about their rights, but also be ensured that they can use alternative remedies, which are enforceable. ODR can establish trust, but this can be achieved with the proper promotion. Lawyers, consumer unions, organisations, or associations, may lead disputants to resort to or utilise the existing alternative methods. Besides, ODR is usually proposed as part of associateship schemes, such as Trustmark. Businesses are frequently inclined to use these programmes on a self-imposed basis for raising consumer trust. Therefore, it was argued before that the main function of ODR schemes is not only to resolve disputes but also to build trust and raise the confidence of disputants (Cortés, 2011).

To increase consumers' confidence in ODR, holding a balance between confidentiality and transparency is essential. Nevertheless, the notion of confidentiality and transparency may vary from ODR methods to ODR methods as mentioned. For example, in the case of online arbitration, it may be required to disclose an arbitration award to the third party, unlike other consensual methods, such as mediation, because of precedent, anxiety about bias, and conflicts of interest are further declared.

Finally, the establishment of the ODR Platform in Pakistan could play a fundamental role in raising awareness of the ADR methods for consumers. The ODR Platform could holistically increase consumer access to justice by doing so. Firstly, this will happen by inviting disputants to research the efficiency of ADR methods. Secondly, when ADR methods are not available, encourage parties to use the online court for their disputes. Increased consumer awareness will also positively impact traders' level of awareness concerning the arbitration board.

### **3.4 Regulatory Challenge**

Another challenge for the development of ODR in Pakistan is the regulatory challenge. Even though ODR is not limited to online transactions, e-commerce is a good field where ODR can reach its full potential. Indeed, the Pakistani government requires an extensive legal framework to establish trust in e-commerce, ADR, and ODR. With regards to e-commerce, the UNCITRAL Model Law on Electronic Commerce of 1996 was a focal point for numerous countries, including Pakistan that has used it to enact national law on e-commerce. Nevertheless, in attempting to use this statute as a guide, lawmakers were not always careful to achieve harmonisation with the existing national law and avoid conflicts with it. Such unintended consequences could create more issues than the ones that they solve. Pakistan started its journey to regulate electronic transactions during the year 2002 by promulgating Electronic Transaction Act. However, the e-commerce transactions fall under the jurisdictions of traditional consumer courts under the consumer protection laws. These laws regulate issues related to goods and services in the electronic sphere, contracts, and orders made over the internet, rules to be followed in commercial communications and commercial electronic messages, and e-commerce enterprises. Despite notable efforts to create a legal framework for e-commerce, including B2C, the desired level of consumer protection, particularly in online shopping, has not been reached.

In Pakistan, two primary pieces of legislation deal with arbitration: the Arbitration Act 1940 and the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral

Awards) Act 2011 is simply a ratification of the New York Convention 1958. However, since the Act 2011 only concerns the enforcement of the arbitral award and arbitration agreement by setting out only ten provisions, Pakistan still requires comprehensive legislation to deal with domestic and foreign arbitration matters to meet the requirement of the digital age (Ullah, 2021) (Gilani & Begum, 2021). Regarding other forms of ADR methods, there is Alternative Dispute Resolution Act 2017 which generally states about the alternate dispute resolution framework without giving detailed and specific reference to the ADR and ODR.

Regarding ODR, currently, there is no applicable national or international law in Pakistan mainly regulating ODR. Therefore, at this stage, we should look at the rules of the Arbitration Act 1940 and the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011 and Alternative Dispute Resolution Act 2017 and examine whether they apply to ODR as well. For example, it should be examined whether some issues related to online arbitration, such as the format of the online arbitration agreement, the e-seat or e-place of online arbitration, the applicable law on online arbitration procedures, also apply to the New York Convention. Likewise, there is a need to analyse whether the rules and principles of the Alternative Dispute Resolution Act 2017 apply to online mediation. This might cause some difficulty to an ODR administrator, mediator, or arbitrator, who is opposed to enacting criteria using a flexible approach. From this aspect, encountering the regulatory challenge requires further research on the efficacy of introducing special rules for ODR or, in the case of relying on the existing ADR laws, on how to incentivise mediation centres, arbitration institutions, judges, and other legal participants so that they consider using ODR.

#### **4.0 CONCLUSION**

Despite its incomplete development, ODR has demonstrated its potential adaptability by accommodating to national contexts. This is an essential feature because the aim is not to blindly transfer a dispute resolution system from other jurisdictions but to habilitate it to the national cultural features as well as social limitations, especially those regarding ICT infrastructure. ODR has also shown its great potential in Pakistan, may provide an affordable and speedy alternative to the usually unsatisfying traditional litigation system, and may allow the resolution of disputes to be completed time-efficiently and cost-effectively. As stated above, some empirical research shows that an effective consumer redress system helping users in resolving their disputes has a favourable effect on the activity of users. If Pakistani manufacturers or service providers provide an effective consumer redress system through ODR, which means buyers will have a better experience with manufacturers, the consumer

may continue to purchase items from manufactures again. In other words, to build consumer trust and assist in developing a reliable and competitive market, manufacturers should provide an effective redress system.

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