

## Online Dispute Redressal in India

### Why in news?

Union Law Minister, in a recent event held in Delhi International Arbitration Centre, emphasized the need for institutional arbitration to enhance the ease of doing business.

### What is Arbitration?

- It is a legal technique for the resolution of dispute outside the courts.
- It allows parties to avoid the normal lengthy recourse to the local courts for settlement of disputes.
- It is a part of the Alternative Dispute Resolution (ADR) mechanism.
- The Indian arbitration is governed and regulated by the Arbitration and Conciliation Act 1996.
- The Act derives its basis from the 1985 UNCITRAL Model on International Commercial Arbitration and the UNCITRAL Arbitration Rules of 1976.

Types of Arbitration	
Institutional Arbitration	Ad Hoc Arbitration
<ul style="list-style-type: none"> <li>• When an arbitral Institution conducts arbitration it is called as Institutional Arbitration.</li> <li>• <b>Example</b> - Delhi International Arbitration Centre, International Arbitration and Mediation Centre (IAMC).</li> </ul>	<ul style="list-style-type: none"> <li>• When the parties agree among themselves and arrange for arbitration, it is called Ad hoc Arbitration</li> <li>• Ad hoc Arbitration has no institutional proceeding.</li> <li>• It can either be domestic, international or foreign arbitration.</li> </ul>

### What are the advantages and disadvantages of ODR?

#### Advantages

- Reduce the burden on the courts
- Saves time, litigation costs, and provide effective resolutions.
- Encourages consensual rather than an adversarial approach
- Geographical limitation can be avoided through ODR

#### Disadvantages

- Impersonal, leading to greater distance between the parties and mediator.
- Inaccessible due to lack of infrastructure for technology
- Lack of protection of confidential material in ODR

## Why India has to focus on arbitration?

- **Preferred choice** - As more countries entered into bilateral investment treaties, institutional arbitration became the preferred choice.
- **Ease of doing business** - Despite its tremendous improvement in the World Bank's Ease of Doing Business report, India ranked 163<sup>rd</sup>, in Enforcing Contracts category.

*India's Ease of doing business ranking improves from 142 in 2014 to 63 in 2019*

- **Unfriendly legislation** - Although India introduced its arbitration legislation in 1996, it acquired a reputation of being 'arbitration-unfriendly'.

## What are the challenges in India?

- *Srikrishna Committee* in 2017 pointed out several reasons which includes:
- **Lack of preference** for institutional arbitration over ad hoc arbitration.
- **Frequent interference** from the judiciary from the appointment of arbitrators to the enforcement of awards.
- Setting aside of arbitral awards on the grounds of '**public policy**'.

## What are the measures taken so far?

- **The Arbitration and Conciliation (Amendment) Act, 2015** - To make arbitration process user friendly, cost effective and ensure speedy disposal and neutrality of arbitrators.
- It amended the Arbitration and Conciliation Act 1996.
- **B.N. Srikrishna committee** - To prepare a road map to make India a hub of international arbitration.
- It recommended the creation of the post of an International law adviser (ILA) to advise the government on international legal disputes, particularly Bilateral Investment Trade disputes.
- **New Delhi International Arbitration Centre** - It is an independent and autonomous body for facilitating institutional arbitration.
- Established by the New Delhi International Arbitration Centre Act, 2019.
- **The Arbitration and Conciliation (Amendment) Act 2019** - It provides for establishment of the Arbitration Council of India.
- **Arbitration Council of India** - It will frame, review and update norms to ensure satisfactory levels of arbitration.
- It will also frame policies governing the grading of arbitral institutions.

## How India can be made an arbitration hub?

- **Incentivise** - Incentivise the use of ODR by way of legislative measures.
- **Infrastructure** - Create infrastructure to curb the digital divide, and catalyse ODR's growth by optimising existing setups such as Aadhaar kendras to also function as ODR kiosks.
- **Dedicated fund** - On the lines of e-Courts project (aimed at digitising the justice

system), a dedicated fund must be set up for furthering ODR.

- **Increase trust** - proactive use of ODR as a grievance redress mechanism by government departments will increase the trust in the process.

## References

1. [The Hindu | ODR](#)
2. [PIB | Year End Review, 2022 | Department of Legal Affairs](#)

